

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 3 July 2002**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.S., J.P.

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, G.B.S., J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

THE HONOURABLE LAU WONG-FAT, G.B.S., J.P.

THE HONOURABLE MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, J.P.

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, J.P.

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE MA FUNG-KWOK, J.P.

**MEMBERS ABSENT:**

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE MARGARET NG

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE DONALD TSANG YAM-KUEN, G.B.M., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE ANTONY LEUNG KAM-CHUNG, G.B.S., J.P.  
THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, G.B.M., J.P.  
THE SECRETARY FOR JUSTICE

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.  
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR HOUSING, PLANNING AND LANDS AND  
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE AND  
SECRETARY FOR EDUCATION AND MANPOWER

DR THE HONOURABLE YEOH ENG-KIONG, J.P.  
SECRETARY FOR HEALTH, WELFARE AND FOOD

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.  
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS AND  
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

**CLERKS IN ATTENDANCE:**

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

## TABLING OF PAPERS

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Interpretation and General Clauses Ordinance (Replacement of Schedule 6) Order 2002 .....	107/2002
Rules of the High Court (Amendment) Rules 2002 .....	108/2002
Tax Reserve Certificates (Rate of Interest) (No. 7) Notice 2002.....	109/2002
Rate of Deductible Interest Notice .....	110/2002

## Other Papers

- No. 91 — Report by the Controller, Government Flying Service on the administration of the Government Flying Service Welfare Fund for the year ended 31 March 2002
- No. 92 — Report by the Commissioner of Correctional Services on the administration of the Prisoners' Welfare Fund for the year ended 31 March 2002
- No. 93 — 2001 Annual Report by the Commissioner of the Independent Commission Against Corruption Hong Kong Special Administrative Region
- No. 94 — Sir Robert Black Trust Fund  
Annual Report for the year 1 April 2001 to 31 March 2002
- No. 95 — The Fourteenth Annual Report of the Ombudsman, Hong Kong (June 2002)
- No. 96 — Airport Authority Hong Kong  
Annual Report 2001/2002

No. 97 — Sir David Trench Fund for Recreation Trustee's Report 2001-2002

No. 98 — Independent Commission Against Corruption Complaints Committee  
Annual Report 2001

No. 99 — Construction Industry Training Authority  
Annual Report 2001

Report of the Panel on Manpower 2001/2002

Report of the Panel on Commerce and Industry 2001/2002

Report of the Panel on Public Service 2001/2002

Report of the Panel on Housing 2001/2002

Report of the Panel on Security 2001/2002

Report of the Panel on Constitutional Affairs 2001/2002

Report of the Panel on Food Safety and Environmental Hygiene 2001/2002

Report of the Panel on Financial Affairs 2001/2002

Report of the Panel on Education 2001/2002

Report of the Panel on Welfare Services 2001/2002

Report of the Panel on Information Technology and Broadcasting 2001/2002

Report of the Panel on Health Services 2001/2002

Report of the Bills Committee on Land Registration (Amendment) Bill 2000

Report of the Bills Committee on Fire Safety (Buildings) Bill

Report of the Bills Committee on Karaoke Establishments Bill

**ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. Mr SIN Chung-kai will address the Council on the 2001 Annual Report by the Commissioner of the Independent Commission Against Corruption Hong Kong Special Administrative Region.

**2001 Annual Report by the Commissioner of the Independent Commission Against Corruption Hong Kong Special Administrative Region**

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, as a member of the Advisory Committee on Corruption, I feel honoured in briefing Members here on the 2001 Annual Report by the Commissioner of the Independent Commission Against Corruption Hong Kong Special Administrative Region tabled before this Council today.

Last year, the Independent Commission Against Corruption (ICAC) received 4 476 corruption reports, up by 86 from 4 390 recorded in 2000. This represents an increase of 2%, and is also the highest ever registered since the ICAC was established in 1974. In face of the continued increase in reports made and the ever-changing social demand, the ICAC has all along striven to improve its efficiency. Since 2000, the ICAC has adopted the strategy of setting up task forces to provide focused corruption prevention services to individual industrial and commercial undertakings which are more vulnerable to corruption. These task forces comprise dedicated officers from the Operations Department, Corruption Prevention Department and Community Relations Department respectively. They are responsible for co-operating closely with the trades concerned, and will draw up comprehensive corruption prevention measures in different areas. Moreover, the ICAC also actively participates in international anti-corruption conferences, for purposes of exchanging anti-corruption experience and expertise with other law enforcement organizations and strengthening international co-operative efforts in anti-corruption.

In the area of investigation, during the year, the ICAC has continued with its proactive strategy, successfully uncovering various corruption and related offences. As corruption offences are getting increasingly complicated and new practices emerging, the ICAC has enhanced its investigation ability correspondingly, including resorting to more undercover operations and informants, expanding intelligence networks, devoting efforts to intelligence



development and analysis, and so on. Besides, during the year, the ICAC has upgraded the function of its internal computer network, increased the efficiency of case information management and strengthened training for its investigators, so as to enable them to keep abreast of the latest developments in technology and improve their investigation skills.

As regards community relations, the "Civil Service Integrity Programme" jointly organized by the ICAC and the Civil Service Bureau was completed in March 2001. The ICAC will continue to co-operate with the Bureau, with the hope of enhancing the integrity of the Civil Service. As for the commercial sector, the ICAC continues to co-operate and develop partnership with the supervisory authorities of individual trades and professional organizations to enhance their ethics. It also actively promotes the importance of best corporate governance to the business sector. Another important area of work for the ICAC is to instil the correct values in youths. Last year, the ICAC continued to bring in more interactive elements in school talks for parents; made use of multimedia and the Internet to step up the conveyance of clean messages to youths, nurturing an ethical culture among the young people; publicize among the people the damages caused by corruption through the mass media.

Regarding the area of corruption prevention, in 2001, the ICAC completed 105 assignment reports concerning the public sector. The areas examined included reviewing the procedures for outsourcing work and services for different government departments, public procurement procedures, law enforcement, personnel and contract management, licensing regulatory mechanisms, management of public funds, and so on. In selecting areas for examination, the Corruption Prevention Department would give priority to corruption loopholes revealed in investigations carried out by the Operations Department. Furthermore, the ICAC also continues to provide free and confidential corruption prevention consultation services on its initiative to private firms, particularly those small and medium enterprises lacking experience or ability to handle internal management control problems. During the year, the ICAC has made 303 corruption prevention suggestions to the organizations concerned.

Madam President, the Commissioner for the ICAC and I would like to take this opportunity to thank this Council and members of the public for their support, and the members of the Advisory Committee on Corruption for their

valuable contribution during the year. We would also like to pay tribute to all loyal and dedicated staff of the ICAC.

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung will address the Council on the Independent Commission Against Corruption Complaints Committee Annual Report 2001.

### **Independent Commission Against Corruption Complaints Committee Annual Report 2001**

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, as a member of the Independent Commission Against Corruption (ICAC) Complaints Committee, I hereby table the ICAC Complaints Committee 2001 Annual Report to this Council on behalf of the Committee.

This is the seventh annual report published by the Committee. The report explains in detail the functions and mode of operation of the Committee, and summarizes the work handled by the Committee in the past year. In 2001, the Committee held three meetings during the year to discuss all papers and investigation reports and formed an independent view on the investigation findings concerning the complaints. An important and positive effect of this complaints handling mechanism is that through examination of issues brought up in complaints, both the ICAC and the Committee are able to carefully scrutinize the ICAC internal procedures, guidelines and practices to see whether these need to be updated, clarified or formalized, with a view to making improvements.

Through publishing the annual report, the Committee hopes to report to the public on a regular basis the work done by the Committee and to enhance public understanding of the ICAC complaints handling mechanism. Should Members have any comments regarding the annual report, they are welcome to forward them to the Secretary of the Committee. I so submit.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek will address the Council on the report of the Panel on Manpower 2001/2002.

**Report of the Panel on Manpower 2001/2002**

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, as the Chairman of the Panel on Manpower, I now present to the Legislative Council the report on the work of the Panel during the year 2001-02, and highlight a few major areas of work of the Panel.

The Panel was very much concerned about the Administration's proposal of setting up the Manpower Development Committee (MDC) responsible for co-ordinating vocational education and training matters. Members supported that there should be better co-ordination in the vocational training and retraining market, but they considered that any changes to the current system should be made in consultation with the staff affected. Members were also aware that the current training providers under the Vocational Training Council (VTC) would have to compete with other training bodies in the open market in future, thus affecting the staff in some measure. Moreover, the proposals might only be able to achieve a reduction in government expenditure but without an increase in overall efficiency and cost-effectiveness.

Since the MDC would be a non-statutory body of an advisory nature, some members expressed concern that the control of vocational education and training might be centralized in the Administration in future. Members urged the Administration to continue its dialogue with the staff associations concerned on issues relating to the establishment of the MDC. The Panel would closely monitor the progress of work relating to the establishment of the MDC.

The Panel noted that the Labour Advisory Board (LAB) had divergent views on whether legislation should be enacted to provide for mandatory rest breaks for employees after a period of continuous work of five hours. The Administration would, in the light of the proposals of the LAB, prepare a guide on the provision of rest breaks and step up educational and promotional work on the granting of appropriate rest breaks.

Some members pointed out that the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong provided that employees should enjoy reasonable rest time. They expressed dissatisfaction that the Administration had failed to comply with the provision in the Covenant, and the lack of government action to enact legislation to provide for rest breaks for employees. These members pointed out that employees in certain occupations

might not be able to have specified rest breaks because of operational needs. They, however, queried why employees in other occupations, such as salespersons, security guards, and so on, could not be provided with specified rest breaks. They also doubted the effectiveness of the guide on the provision of rest breaks.

Some other members agreed that it was important to provide employees with rest breaks but expressed reservations about the introduction of legislation for this. These members suggested that it should be spelt out clearly in the guide that employees should be provided with an aggregate of one hour's rest break/meal break for every eight hours' work in a day. The Administration assured members that the guide would be drawn up in consultation with employers and employees of industries and trades through various channels, such as tripartite committees, employer associations and employees unions.

Some members expressed disappointment that the Administration had not pursued the proposal to set up a mandatory unemployment insurance system, given the serious unemployment situation in Hong Kong. These members considered that the Administration's argument that unemployment insurance would induce moral hazard behaviour was unreasonable, as the amount of unemployment insurance an unemployed person would be able to receive might only be half of his previous earnings, and the payment would be subject to a maximum duration. These members also pointed out that the Comprehensive Social Security Assistance (CSSA) system was unable to provide effective assistance to all the unemployed, as some of them did not meet the eligibility criteria for CSSA. These members felt that the Administration should provide these unemployed with assistance to help them tide over the financial hardship during the spell of unemployment. Some other members did not support the setting up of a mandatory unemployment insurance system in Hong Kong. A member considered it unreasonable to require employers to make contributions. The most effective solution to the problem of unemployment was to revive the economy. Members urged the Administration to undertake effective measures to address the unemployment problem in Hong Kong.

Some members pointed out the results of the Administration's public opinion survey which showed that 82% of household respondents and 73% of employer respondents considered that age discrimination in recruitment did exist. However, the Administration did not intend to introduce legislation against age discrimination in recruitment on the ground that there was no consensus in the

community on the issue. These members thus expressed disappointment and questioned the effectiveness of promoting equal employment opportunities through basic education in eliminating age discrimination in recruitment. They considered that the problem of age discrimination in recruitment could never be tackled in the absence of legislation.

Some other members, however, opposed the introduction of legislation on age discrimination in recruitment. The Administration assured members that it would continue to promote equal employment opportunities through basic education, and publicize the message of anti-age discrimination in recruitment.

I would like to take this opportunity to thank members and colleagues of the Legislative Council Secretariat for their contribution to the Panel's work.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Kenneth TING will address the Council on the Report of the Panel on Commerce and Industry 2001/2002.

### **Report of the Panel on Commerce and Industry 2001/2002**

**MR KENNETH TING** (in Cantonese): Madam President, as the Chairman of the Panel on Commerce and Industry, I now present to the Legislative Council the report on the work of the Panel during the year 2001-02, and give a brief account of a few major issues in the report.

Since all sectors of the community are very much concerned about the subject of protection of intellectual property, the Panel has held a number of meetings to discuss and listen to the views of interested groups on the consultation document on "Review of Certain Provisions of Copyright Ordinance" published by the Government. In general, the Panel considered the making of provisions on criminal liability of end users in possession of copyright infringing articles was too harsh. They noted that the Government would table the bill as soon as possible, so as to make permanent the arrangements in respect of the Copyright (Suspension of Amendments) Ordinance 2001, that is applying the end-user criminal liability provisions to only four categories of copyright works, namely computer programmes, movies, television dramas and musical

recordings. Moreover, the Panel also supported providing more exemptions in respect of using copyright works for educational and non-profit-making purposes. Members noted that the Government would adopt a non-statutory approach to clarify the scopes concerned, so as to make it convenient for teaching and research activities.

The Panel had discussed in detail various measures to facilitate trade and extend support to enterprises, including extending the Open Bond System, extending the Electronic Data Interchange services to the Textiles Trader Registration Scheme, establishing four funding schemes for small and medium enterprises with financial commitment amounting to \$1.9 billion and a \$100 million Professional Services Development Assistance Scheme. The Panel also strongly demanded that the Government step up its work to improve the business environment, and called on the Government to consult the business sector more in order to formulate comprehensive strategies and specific plans to reduce the compliance cost for the sector and boost Hong Kong's competitiveness.

In respect of the plan to construct a new exhibition centre at Chek Lap Kok, the Panel welcomed the Government's revision of the plan after considering the opinions of the Panel and the industry, expanding the area of the centre to 100 000 sq m in order to boost its competitiveness.

The Panel very much welcomed the setting up of the Hong Kong Guangdong Cooperation Coordination Unit and the Hong Kong Economic and Trade Office in Guangzhou by the Government to promote economic and trade relations between the two places and support Hong Kong businesses operating in the Mainland. Furthermore, in order to enable local enterprises and service providers to gain better access to the opening mainland market upon China's accession to the World Trade Organization, the Panel supported the continued efforts by the Government in pressing ahead negotiations with the Mainland on establishing the Closer Economic Partnership Arrangement as soon as possible.

In discussing the consultancy report on the role and operation of the Hong Kong Productivity Council (HKPC), members expressed concern over the increasing involvement of the HKPC in the business sector, which might possibly result in unfair competition for private firms. They urged the Government to step up monitoring of the work of the HKPC so as to prevent it from competing for profits with private organizations.

As regards investment of the Applied Research Fund (ARF), the Panel also expressed enormous concern over its substantial loss due to general adverse economic situation worldwide and the downturn in technology-based industries in recent years. The Government undertook to closely monitor the situation of the Fund and consider the views of the Panel in looking into whether the ARF should continue to exist.

A brief account of other major areas of work of the Panel is included in the report tabled. I so submit. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung will address the Council on the report of the Panel on Public Service 2001/2002.

### **Report of the Panel on Public Service 2001/2002**

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, as the Chairman of the Panel on Public Service, I now present to the Legislative Council the report on the work of the Panel from October 2001 to June 2002.

The report gives an account of the major work of the Panel in the past year. I would like to take this opportunity to highlight a few key issues.

In the past year, the Panel's discussion focused on civil service pay and allowances. While members had no objection to the Administration's initiative to review civil service pay and allowances to examine whether the current arrangements met present-day circumstances, members were concerned about the impact of the various reviews conducted one after the other on the morale and stability of the Civil Service. The Administration assured the Panel that it would adhere to the principles of lawfulness, fairness and reasonableness in considering any issue which might affect civil service pay and allowances.

The Panel exchanged views with the Administration, the Task Force to review the civil service pay policy and system and all major civil service unions on the interim report on the first phase published by the Task Force. The Panel pointed out the implications of the review on the Civil Service, private sector and the Hong Kong economy, and urged for an independent and impartial review. Instead of simply making reference to the reform experience of overseas

governments, practical issues involved in local civil service pay reform should also be considered. The Administration assured members that due regard would be paid to the history of development of the current system as well as the particular needs and requirements of Hong Kong.

The Panel also expressed deep concern over the contentions resulting from civil service pay adjustment this year. While members had no objection to a civil service pay reduction in accordance with the findings of the Pay Trend Survey, they were concerned if the Administration had sufficient legal grounds to reduce civil servants' pay unilaterally, if there was the need to implement the pay reduction by legislation and if the proposed legislation would deprive civil servants of their present rights. The Panel noted the views of the Administration, the staff sides and the Legal Adviser on these issues, and referred the information to the Bills Committee formed to study the Public Officers Pay Adjustment Bill.

With respect to containing the size of the Civil Service, the Panel noted that the Administration was confident that it could further reduce the establishment to 181 000 by 31 March 2003 as scheduled. In view of the expansion of the directorate staff since 1997, members were concerned whether the reduction in civil service establishment had been achieved by the deletion of non-directorate posts. Members urged the Administration to contain the establishment of the directorate staff.

Moreover, the Panel would pursue the implementation of the voluntary retirement scheme and management-initiated retirement scheme as well as the latest development in respect of the setting up of the civil service provident fund scheme by the Administration. The Panel would also discuss with the Administration the raising of language proficiency requirements for entry to the Civil Service, training initiatives, upholding the integrity of the Civil Service, promotion of a customer-oriented service culture and the resource re-engineering exercise of the Architectural Services Department.

Lastly, I would like to take this opportunity to thank members of the Panel and the Legislative Council Secretariat for their contribution to the Panel's work.

Madam President, I so submit.



**PRESIDENT** (in Cantonese): Mr Albert HO will address the Council on the report of the Panel on Housing 2001/2002.

### **Report of the Panel on Housing 2001/2002**

**MR ALBERT HO** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Housing, I now present the report on the work of the Panel in 2001-02. I would like to highlight a few key areas of the Panel's work.

The unclear roles and responsibilities of the Housing Bureau, the Housing Authority (HA), and Housing Department (HD) and the Housing Society (HS) in the delivery of the public housing programme had all along been a major concern of the Panel. In this connection, the Administration set up the Committee on the Review of the Institutional Framework for Public Housing. Before the Committee finished its review, the Panel had invited interested parties such as the academia and concern groups to express their views on the review. The Panel noted that while there was general support for institutional reform, views on merging the Planning and Lands Bureau and the Housing Bureau as well as changing the HA into a pure advisory body were diverse. Thus, the Panel urged the Administration to take into account different views before finalizing the review and to publish these views to enhance transparency. The Administration published the final report of the review of the institutional framework for public housing on 20 June, and the Panel will hold a meeting on 5 July to discuss the report.

As a result of the economic downturn, many flat owners or loan recipients of projects administered by the HA and the HS had become negative equity owners. To alleviate the hardship encountered by these owners, the Panel requested the authorities to relax the restriction on past subsidized home ownership schemes beneficiaries so that those who met the income and asset limits for Waiting List (WL) might apply for public rental housing (PRH) two years after the sale of their flats. In special circumstances, such as bankruptcy, receipt of Comprehensive Social Security Assistance, adverse changes in family conditions as well as medical and other personal or family problems, application for PRH immediately after the sale of the flats should be allowed.

The Panel was dissatisfied that amid the economic downturn, not only had the Administration failed to assist the low income group to tide over their financial hardship but also tightened the safety net of public housing by lowering the income and asset limits of PRH applicants. As a result, a lot of PRH applicants were disqualified. Given that the lowering of the limits might have an adverse psychological impact on the people, causing social instability, the Panel urged the Administration to relax the formula for calculating the WL income limits, and to ensure that any decision to lower the income and asset limits should apply only to applications submitted after the promulgation of the new policy.

The Panel had no objection in principle to the Administration's proposal of merging the Home Purchase Loan Scheme (HPLS) and the Home Starter Loan Scheme (HSLS), so as to meet the people's demand for home ownership flexibly. However, the Panel emphasized that the proposed merger should not impinge upon the pledge for the annual provision of 50 000 housing assistance opportunities as well as the Home Ownership Scheme (HOS). The Panel reminded the Administration that care should be taken in setting the income and asset limits for the new loan scheme to ensure that prospective applicants under the old schemes would be covered by the new scheme. Moreover, the implementation of the new scheme should not affect the financial situation of the HA.

The Panel was very much concerned about the rehousing arrangements for residents affected by squatter clearance operations of the Government. The Panel emphasized that it was unfair to require squatters registered in the 1982 and 1984-85 surveys to undergo the comprehensive means test to establish their eligibility for PRH. The Panel also pointed out that relocating affected residents to interim housing (IH) units in remote areas such as Tuen Mun and Yuen Long not only caused undue disruptions to their daily life but also increased their financial burden. The situation would be further aggravated for those clearerees who could not meet the eligibility criteria for PRH, as they would have to move out of IH after one year. Since the HA had endorsed extension of the eligibility reinstatement period for WL applications to two years, the Panel considered that the HA should review the arrangements for IH in accordance with this principle.

Commercial tenants of the HA and the HS had experienced a business slump amid the economic downturn. To provide necessary assistance to these tenants, a Subcommittee was set up under the Panel to study the letting and renting policies of non-domestic premises of the HA and the HS. On the letting policy, the Subcommittee was concerned that the present tender system was unable to reflect the market rent. Furthermore, the introduction of superstores in public housing estates also severely undermined the competitiveness of existing market stall operators and forced some of them out of business. On the rent policy, the Subcommittee considered that in making rent assessment, the HD had failed to take into account the plight of tenants amid the economic downturn as well as changed circumstances. Moreover, it was also unfair that commercial tenants were not allowed to engage their own estate surveyors to conduct rent assessment. The Subcommittee was also concerned about the high vacancy rate. In this connection, the Subcommittee urged the HA to proactively invite suggestions from community organizations or tenants on how best vacant units could be utilized.

Regarding the regulatory system for the finance of the Estate Agents Authority (EAA), concern had been raised on the lack of improvement to the relationship between the EAA and the trade since the former's inception in 1997. As professionalism could not be upgraded without the participation of the trade, doubt was cast on the appointment of trade representatives who had wholly or partly left the trade to the Board of the EAA. Given that income of the EAA was entirely dependent on proceeds from licence fees, it was likely that the EAA would tend to increase licence fees if there were insufficient licensees. In this connection, the Panel urged the EAA to achieve savings and to explore other sources of income. Consideration should be given to imposing an *ad valorem* levy on property transactions as an alternative mode of funding for the EAA. Enforcement action against unlicensed estate agency work should also be stepped up to ensure that the livelihood of licensees would not be unduly affected.

A brief account of other major areas of work of the Panel is included in the report tabled. I so submit. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr James TO will address the Council on the Report of the Panel on Security 2001/2002.

**Report of the Panel on Security 2001/2002**

**MR JAMES TO** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Security, I would like to table before this Council the Report on the work of the Panel in 2001-02, and I would like to highlight a few major points in the work of the Panel.

As for the Administration's revised prison development plan (the so-called super prison project), some members considered the capital cost of \$16 billion for constructing the proposed prison complex providing 2 600 additional penal places extremely expensive. They preferred the construction of five new prisons at a total cost of about \$5 billion to meet the projected increase in penal population. Some members expressed concern about the co-location of penal institutions that in the event of a riot, the situation might quickly become uncontrollable, thus resulting in a disaster. On the other hand, some members supported the construction of a prison complex, although some of them opposed the capital investment that provided for possible future expansion of the proposed prison complex.

The Administration explained that the capital investment of \$16 billion would be made over a long period of time, which would also stimulate economic development and create job opportunities. The Administration assured members that the penal institutions in the proposed prison complex would be divided into several clusters, each of which would have its own perimeter walls or fences and hold a size of about 400 to 800 inmates. Proper security design and advanced technology would be employed to prevent the spreading of mass behaviour from one institution to another.

Members questioned the need for the installation of CCTV cameras on a permanent basis in Lan Kwai Fong, given that the crime situation in Lan Kwai Fong was not serious, and the place was not crowded except during some festivals. Members were particularly concerned about issues of privacy and the freedom of individuals relating to the use of CCTV systems in public places, since the recorded videotapes might be used for surveillance on the public. Despite explanation by the Administration, members were not convinced of the need to install CCTV cameras in Lan Kwai Fong. The Panel passed a motion at its meeting on 9 April 2002 urging the police to withdraw the pilot scheme of installing a CCTV system operating round the clock in Lan Kwai Fong. Consequently, the Government agreed that the pilot scheme be withdrawn for the time being.

The Panel had discussed issues relating to the judgement delivered by the Court of Final Appeal on 10 January 2002 on the right of abode (ROA) litigation on Article 24 para 2(3) of the Basic Law. Members suggested that the Administration should discuss with the mainland authorities the creation under the One-way Permit (OWP) Scheme of an additional category for children aged over 18 of Hong Kong permanent residents to apply for OWP. Members also suggested that the Administration should explore with the mainland authorities the possibility of granting Two-way Permits (TWP) with multiple-entry and longer visiting periods to mainland residents.

The Panel was subsequently informed in its meeting in June that the mainland authorities had started issuing multiple exit endorsements under the TWP Scheme to mainland residents with spouses in Hong Kong since 20 May 2002. The Mainland's Bureau of Exit-Entry Administration of the Public Security Ministry had agreed to consider the feasibility of allowing the entry of more adult mainland residents with a genuine need to come and settle in Hong Kong. The Administration also informed Panel members that since the beginning of 2002, the Director of Immigration had exercised his discretion under the Immigration Ordinance to allow 57 mainland residents to stay in Hong Kong on compassionate grounds, among whom seven were ROA claimants. As regards repatriation, more than 4 700 ROA claimants had left voluntarily on or before the expiry of the grace period. Between 1 April and 5 June 2002, 555 ROA claimants had been repatriated. Members urged the authority to avoid using force as far as possible in repatriation actions.

With regard to the incident that occurred in Chater Garden on 25 April 2002, some members questioned the need to designate a press area in the police operation to stop the public meeting being staged at Chater Garden. They expressed grave concern about the handcuffing of two reporters in the operation. Some members also questioned why the police had cordoned off Chater Garden in taking action to stop and disperse the public meeting. The Administration assured members that the police attached great importance to maintaining a good working relationship with the media, and that the police would review the internal guidelines on dealing with affairs related to the media.

The Panel was concerned about a public statement issued by the Independent Commission Against Corruption (ICAC) over the arrest of three police officers. Members urged the police and the ICAC to resolve any difference in views through established channels of communication instead of

expressing views through the issue of press releases. The Administration assured members that the police and the ICAC would review the existing liaison channels and examine ways to strengthen communication, with a view to preventing similar incidents in the future. The Panel will follow up the guidelines on issuing press release of the police, the ICAC and other law enforcement agencies as well as the breakdown of co-ordination among them.

I would like to take this opportunity to thank Panel members and the Secretariat for their contribution to the work of the Panel.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Andrew WONG will address the Council on the Report of the Panel on Constitutional Affairs 2001/2002.

### **Report of the Panel on Constitutional Affairs 2001/2002**

**MR ANDREW WONG:** Madam President, I speak in my capacity as Chairman of the Panel on Constitutional Affairs and would like to highlight a few major issues discussed by the Panel in the current Session.

As in the previous Session, the Panel had expended much time and effort in the current Session in deliberating the proposed accountability system for principal officials. The Panel had delved into the subject matter, identified possible problematic areas, and urged the Administration to address those issues. The Panel had engaged in detailed discussion with the Administration particularly on matters attracting great public concern, including, among others, whether it was appropriate to include the Secretary for Justice in the new accountability system.

Furthermore, to facilitate deliberation, the Panel had requested the Research and Library Services Division of this Council to undertake two research studies, one on "Restrictions on activities of former heads of Government and former senior members of Government" and the other on "Process of appointment of senior members of Government in selected countries". The Panel considered the two research reports in detail, and exchanged views with the Administration and the academics on the pertinent issues identified.

In the current Session, the Panel continued our discussion on the application of certain provisions of the Prevention of Bribery Ordinance to the Chief Executive. The Administration agreed to introduce legislative amendments to set out in separate provisions the bribery offences for exclusive application to the Chief Executive. However, despite its undertaking that the amendment exercise would be treated with priority, the Administration had yet to propose a legislative timetable for the consideration of the Panel. The Panel was extremely dissatisfied with the situation and had requested the Chairman of the House Committee to raise the matter again with the Chief Secretary for Administration. The Panel will certainly follow up this issue in the next Session.

The Panel had made repeated requests urging the Administration to issue guidelines for subvented welfare organizations on adjustment of salary of their staff taking up remunerated public offices, along the lines adopted by the Hospital Authority and the University Grants Committee-funded tertiary institutions. In reporting to the Panel, the Administration informed the Panel that the Social Welfare Department had issued a set of "Good Practices" guidelines for reference by subvented welfare bodies. But it maintained its position that under the Government's subvention policy, whether the employees' remuneration should be reduced was a matter between the management of the subvented bodies and their staff. The Panel will take up this issue again with the Administration in the next Session.

The Administration's proposal to set the election limit for the Chief Executive election at \$9.5 million was considered by the Panel. Following the Panel's discussion, the Maximum Amount of Election Expenses (Chief Executive Election) Regulation was gazetted on 9 November 2001, and scrutinized by a subcommittee set up on 12 October 2001 to examine all items of subsidiary legislation relating to the Chief Executive election.

In the current Session, the Panel had also considered the Administration's report on the progress of development of an enhanced new electoral and registration system which would be implemented for the 2004 Legislative Council Elections. Furthermore, a joint meeting with the Panel on Home Affairs was held to discuss the Administration's proposals concerning the composition of the second term District Councils. The Administration had undertaken to conduct a comprehensive review of District Councils after the second term District Council elections at the end of 2003.

Madam President, these are my short remarks on the Panel Report. Thank you.

**PRESIDENT** (in Cantonese): Mr Fred LI will address this Council on the Report of the Panel on Food Safety and Environmental Hygiene 2001/2002.

### **Report of the Panel on Food Safety and Environmental Hygiene 2001/2002**

**MR FRED LI** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Food Safety and Environmental Hygiene, I would like to submit the Report of the Panel to this Council and to highlight a few issues of particular concern to the Panel.

February 2002 marked the recurrence of avian flu in Hong Kong. The Panel expressed grave concern as this was the second outbreak in less than 10 months. The Panel noted that an excessive number of chickens were being raised in some of the local farms and their environmental hygiene warranted improvement. At the same time, some wholesale and retail markets did not follow all the hygiene measures necessary for the prevention of avian flu.

In order to prevent the recurrence of avian flu, the Panel urged the Administration to seriously investigate the causes of the outbreak, tighten regulation of local farms, take additional precautionary measures to avoid cross-infection between local chickens and other poultry, and also to step up monitoring of wholesale and retail markets to ensure compliance with all the hygiene requirements.

On 27 May 2002, the Panel discussed the Report of the Investigation Team for the 2002 Avian Influenza Incident released by the Administration. Members expressed doubts as to the genuine need of the proposed measures to prevent movements between farms and the additional Rest Day for retail markets. Some members were concerned that since the proposed bio-security measures would bring enhanced costs to the chicken farmers, while some farms might not be able to meet these new requirements, the live poultry industry would be wiped out eventually. As there is a three-month consultation period to the proposed measures, the Panel would further discuss the issue in July 2002.



The Panel held a number of special meetings with the Administration on the discussion of various kinds of food products and food animals containing harmful or banned substances. The Panel urged the Administration to strengthen its control at both import and retail levels to protect public health, to strengthen, in particular, its liaison with the responsible authorities of the exporting areas, and to make use of efficient methods to provide faster results of food tests.

The Panel urged the Administration to step up its surveillance efforts on food safety at retail points, enhance public awareness of food risks, and publish the risk assessment studies conducted on various kinds of food.

The Panel also noted that according to the views collected during a public consultation conducted by the Administration, a majority of the public supported the implementation of a mandatory labelling system for genetically modified (GM) food. However, the food trade had expressed reservations about the proposal as this would incur additional costs to the trade. Since the Administration would engage a consultant to study the various options concerning the GM food labelling system, and the financial implications of various options on the food trade and on food prices, the Panel would hold further discussions with the Administration on the results of the consultancy study.

The Panel held a special meeting in May 2002 to discuss with the Consumer Council, the trades and meat suppliers the recent problem of pork supply arising from a row between the buyers and Ng Fung Hong. The Panel also examined the procedures concerning pigs auction, and so far, no evidence had been found as to any impropriety with the conduct of auction. The Health, Welfare and Food Bureau is now examining the case to see whether it involves "monopoly" or "anti-competitive conduct". The Panel would follow up the issue.

With regard to the Mainland's abolition of quotas for chilled meat for export to Hong Kong from January 2002, the Panel held a special meeting with the trade representatives to listen to their views. The Panel requested the Administration to consult the trades concerned and put in place a safe, open and efficient quarantine system to ensure the hygiene standard of chilled meat. The Panel would, in due course, discuss with the Administration the preparatory work concerned.

As regards the regulation of food business, the Panel had discussed with the Administration the proposed new inspection system and the Open Categorization Scheme, the streamlined licensing procedures for food business and the proposed licensing arrangement for approving outside seating accommodation for licensed restaurants.

The Panel also had discussions on aligning the policies for hawkers in the New Territories and the urban areas, including the proposal to provide *ex gratia* payments to those licence holders who spontaneously return the Itinerant Hawker Licences and Cooked Food Stall Hawker Licences.

Since the other work of the Panel has already been stated in the Report in detail, I would not repeat it here.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Mr Ambrose LAU will address the Council on the Report of the Panel on Financial Affairs 2001/2002.

### **Report of the Panel on Financial Affairs 2001/2002**

**MR AMBROSE LAU** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Financial Affairs, I would like to submit the Report of the Panel on Financial Affairs 2001/2002 and give a brief account of several key areas of work of the Panel.

During the current Session, the Panel studied in depth various issues like economic development, management of public finances and financial system of Hong Kong. The Panel was concerned that Hong Kong was still in the transitional period of economic restructuring, and that some enterprises and members of the public might still have to face substantial financial pressure in the coming future. In this regard, the Panel had in-depth discussions during meetings with the Financial Secretary on the development direction and strategy of the Hong Kong economy. This included how Hong Kong should make use of its advantages to develop various high value-added economic activities, the role of the Government in economic development, and how, in the course of promoting the development of various sectors of the economy, small and

medium enterprises and low-skilled workers could be assisted in meeting the challenges brought by economic restructuring.

The Panel considered it very important to seize the business opportunities arising from the liberalization of the mainland economy. For this reason, it urged the Financial Secretary to engage in active discussions with the mainland authorities on promoting better collaboration on economic matters between the two sides. This could facilitate the early entry of local businesses and professional services into the mainland market. Some members also felt that the prime task of the Financial Secretary was to ease unemployment and restore the people's confidence in the economy. They urged the Administration to keep a close watch on the possible economic and social impact of scaling down government spending.

In regard to management of public finances, members pointed out that in making proposals to introduce new taxes, the Administration should give careful consideration to the peculiar situation of Hong Kong and the possibility of such new taxes causing any adverse impact on Hong Kong's competitiveness. Members considered that the new taxes would have far-reaching implications on society as a whole and urged the Administration to conduct wide public consultation before seeking to implement any new taxes.

During the Session, the Panel were briefed by the Chief Executive of the Hong Kong Monetary Authority (HKMA) on three occasions on the work of the HKMA. In the briefings, members and the Chief Executive of the HKMA had detailed discussions on the management of the Exchange Fund and various measures for promoting the development of the financial system

The Panel had discussions with the Government and the banking industry to examine the extent of the negative equity problem and the feasible measures that could be taken to assist these owners. Members urged the HKMA and the banking industry to work closely with the other relevant sectors in proactively providing assistance to those owners of negative equity, on condition that the stability of the banking system must not be adversely affected. During the briefings by the Chief Executive of the HKMA, members also pursued with the HKMA on the progress of the relevant work.

To follow up the issues raised by Legislative Council Members in relation to protection of the rights and interests of banking consumers on various forums

in the past, the Panel conducted comprehensive discussions with the HKMA, the banking industry and the Consumer Council. Having regard to overseas experience and local circumstances, members considered that certain major issues should be examined in greater depth. These include the functions and powers of the HKMA in protection of banking consumers and the mechanism for handling complaints. The Panel would continue to closely monitor the situation concerning complaints by banking customers, and would revisit the issue with all the relevant parties in the coming Session.

Against a rising trend of delinquent consumer debts and personal bankruptcies, the banking industry proposed to extend the scope of consumer credit data, to include both positive and negative credit data, that could be shared among credit providers. In respect of this proposal, members noted the different views expressed by the banking industry, the Consumer Council and the Privacy Commissioner for Personal Data. Members also raised various concerns on the banking industry's proposal. The Panel would pay close attention to the progress in this regard, and revisit this issue with the relevant parties in due course.

The other key areas of the Panel's work have already been listed in the Report tabled. I would like to express my heartfelt thanks to Panel members and the staff of the Legislative Council Secretariat for their contributions to the Panel. I so submit.

**PRESIDENT** (in Cantonese): Mr YEUNG Yiu-chung will address the Council on the Report of the Panel on Education 2001/2002.

### **Report of the Panel on Education 2001/2002**

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Education, I would like to give a brief account of the major work of the Panel during the 2001-02 Legislative Council Session.

In regard to higher education, the Panel held three meetings concerning the Review Report on Higher Education in Hong Kong. It invited the

University Grants Committee (UGC) to brief the Panel on the Review Report, received views from academics, staff associations and students' unions in the higher education sector and other interest groups, and discussed the Review Report with the Administration and the UGC. At the Legislative Council meeting on 26 June, in my capacity as Chairman of the Panel, I also moved a motion debate on the report on Higher Education in Hong Kong.

Some members and staff associations in the higher education sector opposed the report's recommendation of delinking the terms and conditions of service of staff of UGC-funded institutions from the civil service pay and conditions of service. They considered that the recommendation would eventually bring about a reduction of resources for higher education and a drop in staff morale and salary levels.

The Administration stressed that the "delinking" proposal was not intended to reduce funding for higher education, but to give institutions greater flexibility in recruiting and retaining talents. The Administration would work out a specific funding mechanism with the UGC if the "delinking" proposal was to be implemented. Members considered that the Administration must give an undertaking that funding for higher education would not be reduced with the implementation of the "delinking" proposal, and there should be a fair and transparent mechanism for determination of salary differentiation when the proposal was implemented.

Some members also strongly objected to the recommendation on provision of associate degree and sub-degree programmes on a self-financing basis. They were concerned that many students simply could not afford the exorbitant programme fees.

The Panel held discussions with staff associations of the higher education institutions, interest groups, the UGC and the Administration about supervision of the administration of UGC-funded institutions. Some members considered that institutional autonomy should not be narrowly interpreted as the power of the management of an institution to manage the affairs of the institution, because the staff and students of the institution should also have a right to participation. These members suggested that there should be a mechanism with a high degree of acceptability to handle staff complaints.

As regards primary and secondary education, the High Court ruled in June 2001 that the original Secondary School Places Allocation (SSPA) system was unlawfully sex-discriminatory. The Panel was briefed by the Education Department (ED) on the implementation of the relief measures under the 2001 SSPA and the changes that would be made to the 2002 SSPA. Members considered that the ED should conduct extensive research and public consultation before introducing any major changes. They made a request to the Administration that the new assessment mechanism should be designed to assess the performance of boys and girls on a fair basis, rather than to cater for the differences in physical and cognitive development between them.

The Panel was briefed by the Administration on the progress of curriculum reform for primary and secondary schools. Members expressed concern over the quality and workload of those teachers being assigned as curriculum development leaders. Members stressed that the curriculum reform for primary and secondary schools should dovetail with the admission system and curriculum of universities.

On kindergarten education, the Panel supported the improvement to the Kindergarten Subsidy Scheme which aimed to encourage kindergartens under the Scheme to employ 100% qualified kindergarten teachers. Members were concerned that as some kindergartens were operating classes of a larger size, the quality of kindergarten education would be affected. The Administration stated that the improved Scheme, which was based on a group grant instead of a class grant, would help reduce the class size in kindergartens. From the next school year onwards, all kindergartens should meet the required teacher-pupil ratio of 1:15 for all levels of study.

Finally, the Panel listened to the views expressed by the applicant organizations about the assessment criteria and management of the Quality Education Fund (QEF). Members considered that the QEF Steering Committee should improve the transparency of the assessment mechanism. Members also expressed concern that the QEF had been used by the Administration as a supplementary fund-provider for the ED. The Panel would revisit this issue when the QEF Steering Committee had completed its overall review.

Madam President, I so submit and thank the Legislative Council Secretariat for its support to the work of the Panel during the year. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han will address the Council on the Report of the Panel on Welfare Services 2001/2002.

### **Report of the Panel on Welfare Services 2001/2002**

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Welfare Services, I present to the Legislative Council the report on the work of the Panel during the year 2001-02, and give a brief account of several issues of particular concern to the Panel.

At the beginning of the Session, the Panel discussed measures to tackle poverty with the Administration and representatives from the welfare sector.

Most members shared the view that the various measures taken by the Administration to tackle poverty had not been effective in ameliorating the problem. Members were particularly concerned about the widening disparity between the poor and rich revealed in the results of the 2001 Population Census.

As the causes of poverty were complicated and interrelated, the Panel passed a motion urging the Administration to set up an inter-departmental combat poverty committee to conduct studies on the issue of poverty and propose relief measures.

The Panel also visited an integrated family service centre in Tin Shui Wai in April 2002 and met with single-parent service users during the visit to understand their needs and concerns.

As housing was one of the main concerns of single-parent users of that centre, members urged that sympathetic consideration be given to their applications for public housing units in the same estate as their close relatives. Approval of their applications would enable them to have more support from their mothers or sisters in child care and other areas, which would in turn enable them to seek employment instead of relying on Comprehensive Social Security Assistance.

In the wake of a number of family tragedies, the Panel discussed the strategy and measures to prevent and tackle family violence with the Administration and four family welfare organizations. These organizations

expressed concern that the police often treated incidents of family violence as internal disputes within the family without making referral to the Social Welfare Department (SWD) for timely intervention. The police explained that they were subject to the Personal Data (Privacy) Ordinance (the Ordinance) and in normal circumstances, the police would have to respect the rights of the persons concerned if they did not give consent to referral.

Mr LAW Chi-kwong, a member of the Panel, pointed out that section 59 of the Ordinance provided that disclosure of personal data could be exempted from the provisions of data protection principles if the non-disclosure of such would cause serious harm to the physical or mental health of the data subject. Therefore, the police should be able to refer domestic violence cases to the SWD for follow-up even if the victim or abuser did not give consent to such referral. The police agreed to review and seek further legal advice on the issue.

Members noted that the Subcommittee on Guardianship and Custody of the Law Reform Commission would finalize its proposals on guardianship and custody of children later in the year. Members hoped that through encouraging a less divisive approach, family tragedies arising from disputes concerning parental rights could be minimized. Members were also concerned about the difficulties encountered by battered women in securing a separate housing unit from the Housing Department and the matter had been referred to the Panel on Welfare Services for follow-up.

Madam President, on behalf of the Panel, I would like to thank the staff of the Legislative Council Secretariat for their assistance to the Panel. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai will address the Council on the Report of the Panel on Information Technology and Broadcasting 2001/2002.

### **Report of the Panel on Information Technology and Broadcasting 2001/2002**

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Information Technology and Broadcasting, I present the report on the work of the Panel during the year, and speak on several major issues.



The Panel supported in principle and followed closely the implementation of full liberalization of the fixed telecommunications network (FTN) market with effect from 1 January 2003. Members were concerned about the market share of the new FTN operators to ensure that full liberalization would bring about real benefits in terms of enhanced competition and more choices for consumers. Noting that FTN operators would not be required to provide performance commitments under the fully liberalized regime, members suggested that measures should be taken to prevent operators from selectively providing service in profitable sectors only. The Administration also agreed that it would include such factors as the intended coverage areas when considering applications for FTN service licences. The Administration assured the Panel of its commitment to providing a regulatory environment which encouraged competition and maintained investment incentives. The Panel would continue to follow up with the Administration the effect of full liberalization on the industry and consumers.

As regards interconnection, the Panel heard the views expressed by FTN operators on interconnection arrangements, and exchanged views with the Administration and the industry on the pros and cons of the current regulatory approach, self-built networks or Type II interconnection, and the arrangement for the Telecommunications Authority to make determinations. Members urged the Administration and the industry to work hand in hand to resolve the problems concerning interconnection. The Panel would continue to closely monitor the situation with a view to expanding to choice open to consumers.

As regards information technology, the Panel in general supported the E-government initiatives to improve productivity and services to the public. The Panel urged the Administration to take active measures to promote the utilization of various E-government services and focus should not be placed on the provision of an e-option only. Members were of the view that the Administration should examine the implications of the implementation of E-government, including any possible competition with the private sector for profits. The Panel was also deeply concerned about the low application of information technology among small and medium enterprises (SMEs) and would continue to follow up with the Administration on the promotion of wider application of information technology and e-business by SMEs.

On the review of the Electronic Transactions Ordinance, members pointed out the lack of competition in the existing certification market and urged the Administration to expedite its processing of applications so that more recognized certification authorities could join the market. Moreover, the Administration accepted the suggestion of the Panel on ensuring consistency in the use of expressions like "the Internet" and "online" when drafting legislation in future.

The Panel deliberated on the incorporation of non-immigration applications in the chip embedded in the smart identity card and stressed that the inclusion of value-added applications should be voluntary. Noting that only the digital certificates issued by the Hongkong Post would be embedded into the new identity card free of charge for one year, members were concerned about the possibility of monopoly. The Administration responded that reservations had been expressed by the public about including commercial applications in the new identity card at this stage. However, when the community was better prepared, the Administration would consider opening the new identity card platform to other recognized certification authorities.

The Panel reviewed the progress and key activities of the Cyberport project with the Government on a regular basis. Members highlighted the need to ensure that the Cyberport would serve its intended objective of creating a strategic cluster of leading information technology and service companies in Hong Kong instead of becoming another property development project. Given that the current economy was bad and the information technology industry had entered a phase of consolidation, members were very much concerned about the tenancy position of the Cyberport and would keep a watch on its future progress. The Panel would also continue to follow up other matters in relation to the Cyberport project, such as management structure and financial arrangements.

Lastly, the Panel planned to conduct a duty visit to South Korea in 2002 to gain a better insight into its fast-growing information technology sector.

The report also gives a detailed account of the work of the Panel in other areas in this Session. I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mrs Sophie LEUNG will address the Council on the Report of the Panel on Health Services 2001/2002.

**Report of the Panel on Health Services 2001/2002**

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Health Services, I present to the Legislative Council the report on the work of the Panel during the year 2001-02, which is now tabled before Members. I will give a brief account of several major areas of work of the Panel.

The Subcommittee formed under the Panel in April 2001 to discuss with the Administration how to improve the mechanism for handling medical complaints concluded its work at the end of January 2002. At the conclusion of discussions, most members of the Subcommittee were of the view that a complaints office independent of the Government should be set up in response to the strong public call for such an office to provide a one-stop service for handling patients' complaints.

The Administration presented its views on the reform proposals of the Medical Council of Hong Kong (HKMC) and the establishment of an independent complaints office at the Panel meeting in February 2002. As regards the arguments of the Administration for not setting up an independent complaints office, some members pointed out that the stance of the Administration was a regression. Also, in view of the present situation, the earlier proposal of the Administration on setting up a complaints office under the Department of Health was more desirable than relying on the reform initiatives of the HKMC.

At the conclusion of the discussion, the Panel passed a motion urging the Government to expeditiously set up a complaints office under the Department of Health to receive medical complaints, conduct preliminary investigations, make referrals and conduct mediation; and to examine at an appropriate time gradually making the office independent. The Administration undertook to consider the proposal and reply to the Panel on the result.

The provision of community psychiatric services was also one of the major concerns of the Panel. Members agreed that the various initiatives undertaken by the Hospital Authority (HA) to enhance the provision of community psychiatric services were moving in the right direction. However, they worried that these initiatives were far from adequate to meet the needs of patients. Members pointed out that the places in halfway houses and long stay care homes were in shortage and the aftercare services for discharged mental patients to help

them integrate into the community were grossly inadequate. In response to members' concern about the rehabilitation services for discharged mental patients, the Administration would continue to provide the Panel with papers setting out in detail how it intended to address the issue.

Working hours of public hospital doctors was also one of the major concerns of the Panel. Members were concerned that the HA still failed to fully comply with the Employment Ordinance by providing doctors with one rest day every week. Several members shared the view that the HA was violating the law in failing to grant all doctors one rest day every week and urged that this be rectified expeditiously. The HA undertook to seek legal advice on the issue. In response to the request of the Panel, the Administration provided the report on the Audit Survey of Doctors' Working Hours for members' information. Members agreed that working hours of public hospital doctors should be made a standing issue for discussion by the Panel on a yearly basis.

The report also gives a detailed account of the work of the Panel in other areas. On behalf of the Panel, I would like to express our gratitude to all those involved in the work of the Panel, especially the staff of the Legislative Council Secretariat.

Thank you, Madam President.

## **ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

### **Impact of Aircraft Noise on Residents**

1. **MR ALBERT CHAN** (in Cantonese): *Madam President, this is the first oral question subsequent to the implementation of the accountability system for principal officials. I hope the Secretary can display some new thinking and bring us new hopes.*

*Madam President, in reply to my question on 4 July last year, the Government stated that it had already implemented a series of measures to effectively reduce the impact of aircraft noise on residents. Nevertheless, I learn that aircraft noise remains a nuisance to a large number of residents. In this connection, will the Government inform this Council:*

- (a) *of the areas in which the highest aircraft noise levels recorded exceeded 70 decibels, the names of the specific locations within these areas and the highest noise level recorded in each area last year; how these figures compare to those of the previous year; and of the highest aircraft noise levels recorded last month at various stationary noise monitoring terminals between midnight and 7 am;*
- (b) *of the new measures to reduce the nuisances caused to residents living under the flight paths; and*
- (c) *as a number of residential estates are now completed or will soon be completed successively at Ma Wan and Sham Tseng, and the residents may not be aware of the serious aircraft noise problem until after they have moved in, how the Government deals with the aircraft noise problem in these estates?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, first of all, I would like to thank the Honourable Albert CHAN for making me the first principal official under the accountability system to answer an oral question. My reply to the three parts of the question raised by Mr Albert CHAN is as follows:

- (a) In Hong Kong, the noise impact caused by aircraft take-off and landing is assessed on the basis of the internationally accepted "Noise Exposure Forecast (NEF) Contour". The contour is determined having regard to factors including the decibel levels of aircraft noise, the tonal characteristics, as well as the duration and frequency of overflying flights at different times of the day. The standard currently adopted in Hong Kong, namely the NEF 25 Contour, is comparable to, or even more stringent than, the standards adopted in many other places in the world. Compared with a single measure of decibel levels, the NEF model can reflect more comprehensively and appropriately the noise impact caused by aircraft take-off and landing.

The highest decibel levels recorded by the 15 aircraft noise monitoring stations in Hong Kong between 1 April 2001 and 31 March 2002, and their comparison with the same period of the preceding year, are set out in the Annex tabled before Members.

According to the records of aircraft noise levels at the various aircraft noise monitoring stations between midnight and 7.00 am in May this year, the highest noise level was 86.8 decibels, recorded at Sha Lo Wan which is located within the NEF 25 Contour. As regards the 13 noise monitoring stations outside the NEF 25 Contour, the highest noise levels recorded were as follows:

- (i) at four of the monitoring stations (namely Shau Kei Wan, Jardine Lookout, North Point and Tai Wai), the highest levels recorded were 70 decibels or below;
- (ii) the monitoring stations at Kwai Chung and Ting Kau recorded a level higher than 70 and up to 75 decibels. The count at this noise level for the whole month of May was four and 13 respectively, that is, less than one flight per day, and the highest levels recorded were 74.3 and 74.8 decibels respectively; and
- (iii) the monitoring stations at Tsing Yi, Tsuen Wan, Tung Chung, the Peak, Tai Lam, Tsing Lung Tau and Yam O recorded a level higher than 75 and up to 80 decibels. The count at this noise level for the whole month of May ranged from 1 to 19, that is, less than one flight per day, and the highest levels recorded were between 75.3 and 78.9 decibels.

Owing to equipment failure, the Civil Aviation Department (CAD) does not have the noise data on Ma Wan for May this year.

- (b) The Government understands the residents' concern about aircraft noise. In fact, the CAD has implemented a series of measures to reduce the impact of aircraft noise in recent years.

Since August 1999, aircraft taking off towards the northeast of the Hong Kong International Airport (HKIA) have adopted the noise abatement take-off procedures prescribed by the International Civil Aviation Organization (ICAO) to reach a higher altitude within a short distance, thus minimizing the noise impact on areas near the airport. Recently, the ICAO further improved such noise abatement take-off procedures, and the CAD immediately applied the revised procedures to the HKIA with effect from March 2002 for more effective noise abatement.

In addition, through relevant legislative amendment, the CAD has banned all Chapter 2 wide-bodied subsonic jet aircraft as defined in Annex 16 to the Convention on International Civil Aviation, which are subject to less stringent noise standards, from landing and taking off at the HKIA with effect from 1 July 2002.

In addition to the above, the CAD has continued to adopt other aircraft noise abatement measures which include, subject to acceptable wind direction and speed as well as the condition that flight safety and air traffic operation will not be affected, the implementation of three take-off/landing measures:

- (i) to reduce the number of aircraft overflying areas such as Sha Tin, Kwai Chung, Tsing Yi, Tsuen Wan and Sham Tseng at night, aircraft arriving between midnight and 7 am are arranged to land from the southwest as far as possible;
- (ii) to avoid overflying more densely populated areas in Kowloon and on Hong Kong Island, aircraft taking off towards the northeast between 11 pm and 7 am are arranged to use the southbound route via the West Lamma Channel as far as possible.

Since implementation of the above measures, over 90% of the aircraft which took off or landed during the specified periods have adopted these measures. This has effectively reduced the number of aircraft overflying residential areas in small hours.

- (iii) To minimize aircraft noise impact on areas such as Sai Kung, Tseung Kwan O and Ma On Shan, starting from August 2000, aircraft approaching from the northeast between 11.00 pm to 7.00 am have adopted the Continuous Descent Approach for landing.
- (c) According to the Hong Kong Planning Standards and Guidelines, all noise sensitive developments including residential developments are prohibited within the NEF 25 Contour. The residential estates at Ma Wan and Sham Tseng areas, which are due to be completed, are currently located outside the NEF 25 Contour. This means the aircraft noise levels in these areas meet the planning standards currently adopted in Hong Kong. These new housing estates will also benefit from the aircraft noise abatement measures as detailed above. The CAD will continue to implement proactively these measures to minimize the aircraft noise impact on the residents.

Since 1999, the CAD has regularly published the noise data, flight path maps and the NEF 25 Contour map on the Internet. As requested by the Tsuen Wan District Council, the CAD also regularly issues data collected by the aircraft noise monitoring stations located in the district to the District Council. The Department stands ready to liaise with other District Councils and provide information to them. The CAD has also set up a hotline to answer public enquiries and listen to comments on aircraft noise. It will continue to closely monitor the situation on aircraft noise and issue the relevant data through various channels, including the Internet, to the public.



## Annex

The highest decibel levels recorded by  
aircraft noise monitoring stations in Hong Kong

	<i>The Highest Decibel Level</i>		
	<i>Between 1 April 2000 and 31 March 2001</i>	<i>Between 1 April 2001 and 31 March 2002</i>	<i>Comparison with the corresponding period in the preceding year</i>
Kwai Chung	76.1	73.3	-2.8
Tai Wai	76.0	73.5	-2.5
Tsing Yi	76.9	74.3	-2.6
Tsuen Wan	76.4	75.7	-0.7
Tung Chung	79.6	76.5	-3.1
Tai Lam	78.6	76.5	-2.1
The Peak	76.4	77.3	+0.9
Jardine Lookout	77.9	78.1	+0.2
Shau Kei Wan	77.4	79.0	+1.6
North Point	77.4	79.6	+2.2
Yam O	79.9	79.8	-0.1
Ting Kau	77.7	79.8	+2.1
Tsing Lung Tau	78.2	79.8	+1.6
Ma Wan	80.7	81.1	+0.4
Sha Lo Wan	81.6	86.4	+4.8

**MR ALBERT CHAN** (in Cantonese): *Madam President, there is no novelty in the reply given by the Secretary. The reply is just the same as that given by any traditional technocrat. If we look at the Annex, we will find that the noise problem has not been abated. Instead, it has been aggravated — over 50% of the monitoring stations recorded a noise level that was higher than the level in last year. Will the Secretary review the overall control on aircraft noise and the mapping of the flight paths by using new thinking and new approaches to find a solution to abate aircraft noise? If the Secretary says he cannot use new thinking, then can he explain why as a new principal official he cannot use new thinking to find a solution to the problem or to ameliorate it?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I believe Mr CHAN is more concerned about noise problems at Kwai Chung, Tsing Yi and Tsuen Wan areas. If he looks at the Annex, he will be able to tell that, compared with last year, the decibel levels recorded have dropped. Indeed, the CAD will try every possible means to abate noise. What else can we do? I trust Mr CHAN is aware that we have done a lot in the past few years. I hope Mr CHAN can remember that the flight paths for the new airport were designed basing on a number of considerations. In addition to aircraft noise, we also considered geographical environment, direction of the runway and airspace arrangements in relation to other adjacent airports. As we know, Hong Kong has a mountainous terrain. Due to considerations of limitations in airspace and flight safety, which, I must stress, is of the utmost importance, we cannot change the flight path just because of the noise problem. In fact, the present flight paths were designed with the assistance of international aviation experts recruited by the CAD in 1994, after taking into account many factors and in-depth research. I have spent several minutes just now to give a detailed explanation. We did not just sit back doing nothing in the past. We did all we could, including maintaining close contacts with residents. We even measured noise levels with them together at times. I understand that the District Councils have also commissioned consultants to study the noise level. I just wish to say that we will remain open in our attitude and if the ICAO has any new procedures to help improve the *status quo*, we will follow immediately. In addition, we will be alert to other developments in technology and we will do whatever we can. We will work closely with Mr CHAN and continue to tackle problems with new thinking.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, to reflect the gravity of the noise problem I once accompanied the representatives of owners' corporations in Tsing Yi to lodge a complaint with the CAD. The explanation provided by the Government was that some of the aircraft deviated from the flight paths, thus causing the noise. However, it seems the CAD cannot find a solution to solve the problem. From the Annex to the main reply, we can see that half of the districts recorded a noise level higher than the previous year. Why? Was that due to the deviation, which was becoming serious, or even due to flights directly above the residential areas so that the noise level was increased, or was that due to other reasons?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, the Honourable TAM Yiu-chung mentioned some deviated flights, which according to figures from the CAD, did take place from time to time. As we know, aircraft, unlike cars, may deviate slightly from their flight paths; but the deviation has to be explained afterwards to the CAD. So, we do maintain monitoring on this. As I have explained, aircraft noise may originate from many sources and its measurement is dependent on the circumstances under which recordings are taken. The important point, however, is that we will continue to maintain contact with residents. Moreover, as I said, we have taken some measures recently which are helpful to abating noise. We will at the same time continue measuring the noise levels with a view to finding other solutions. The CAD will be more than pleased to continue its discussions with District Councils and Members to see what other solutions there are to the problem.

**MR ALBERT HO** (in Cantonese): *Madam President, in part (c) of his main reply the Secretary said that a large number of attractive new residential estates would be occupied soon at Sham Tseng and Ma Wan areas. But from the Annex to the main reply, it can be seen that the level of aircraft noise there is very high, reaching 79 to 81 decibels. I know that some people were not aware of the noise and, after having moved into these districts, found it difficult to sleep at night because of the noise produced by passing aircraft. Will the Secretary inform this Council whether means other than those mentioned in the main reply, that is, through the Internet or the District Councils have been employed to inform people intending to move into these areas about the high aircraft noise level recorded?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I have explained clearly in my main reply and I hope the Honourable Albert HO can understand that we do not just use decibels as a standard; we also use the "NEF 25 Contour" as a reference because it can allow more objective consideration of all factors by us. In fact, compared with the "NEF 30 Contour" used in Canada and the United States, we have applied a more stringent standard because a higher noise level is permissible in these areas. I just wish to point out again that the new housing estates to which Mr HO has referred are situated in areas outside the "NEF 25 Contour". So, compliance with the planning standards is in order. Madam President, I pointed out earlier

that we would adopt measures we could possibly do. Some simple measures include making arrangements to make aircraft stay away from such areas as Tai Lam, Ma Wan, Tsing Yi, and so on, as far as possible at night and arranging for aircraft to overfly West Lamma as far as we can. In this connection, we have managed to arrange for 99% of the aircraft to overfly West Lamma so that they do not overfly residential areas at night.

**MR ALBERT HO** (in Cantonese): *Madam President, my supplementary question is: Are there any other means to notify prospective purchasers of flats in these areas about the high noise levels there? The Secretary has not answered this part of the supplementary question. Does it mean the Secretary cannot provide other means then?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I said we had provided all information on the Internet. In addition to that, we will be pleased to explain to District Councils about the issue. If more information is required, we have a hotline to answer questions about noise, as I said. I think the most important means for dissemination of information is the Internet. Indeed, we are recording the level of noise produced by aircraft and upload them onto the Internet on a monthly basis. I believe this is the quickest way to let everyone read the data.

**PRESIDENT** (in Cantonese): We have already spent more than 16 minutes on this question. Last supplementary question.

**MR IP KWOK-HIM** (in Cantonese): *Madam President, in part (b) of his main reply the Secretary said that since March 2002, the CAD had applied revised procedures for more effective noise abatement. Will the Secretary inform this Council so far there has been any case of aircraft not following the revised procedures in their flights? If non-compliance occurs, how will the Government or the Airport Authority deal with the case?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, according to information provided by the CAD,

there have been no cases of non-compliance. Though noise is an important issue, what is more important is flight safety. We will certainly take note of any non-compliance arising from safety considerations, as each case arises, but since the implementation of the procedures in March, there has not been any case of non-compliance according to our records.

**PRESIDENT** (in Cantonese): Second question.

### **Compensation for District Council Members Injured in the Discharge of Duties**

2. **MR IP KWOK-HIM** (in Cantonese): *Madam President, it was reported that in March this year, a District Council (DC) member was assaulted and injured just after he had left his DC member's office, and had to be sent to hospital for treatment. The incident allegedly had to do with the remarks he had made at an Area Committee meeting a few days earlier. The Home Affairs Department later stated that "since DC members are not government employees, they would not be entitled to compensation even if they were injured because of the discharge of duties. However, members may approach the Social Welfare Department (SWD) to ascertain the eligibility of the victims in such cases for compensation under the Criminal and Law Enforcement Injuries Compensation Scheme." In this connection, will the Government inform this Council:*

- (a) *given that DC members are public officers, of the reasons for the Administration not paying compensation to DC members who are injured because of performing their duties; and*
- (b) *since DC members are not entitled to any employees' compensation for death and injury, whether the Administration will consider taking out insurance for DC members with a view to providing them with similar protection; if not, of the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President,

- (a) Under the Employees' Compensation Ordinance (Cap. 282, Laws of Hong Kong), employers are liable to pay compensation to employees who suffered personal injury caused by accident arising

out of and in the course of the employment. Thus, in accordance with the law, the Administration will only compensate public officers who have established an employment relationship with the Government for any injury on duty. Although DC members are members of a public body, they are not government employees. Consequently, the compensation for employees injured on duty as stipulated in the Employees' Compensation Ordinance is not applicable to them.

DC members, if injured, may claim compensation from the persons at fault through civil proceedings. Moreover, innocent victims of crimes of violence may apply for compensation under the Criminal and Law Enforcement Injuries Compensation Scheme of the SWD.

- (b) Although DC members are members of a public body, they are not performing official functions on behalf of the Government. The Government has no plans, at this stage, to take out personal insurance for DC members. They may consider taking out insurance on their own if necessary. We shall relay such concern to the Independent Commission on Remuneration for District Council Members of the Hong Kong Special Administrative Region in the next review on the remuneration package for DC members.

**MR IP KWOK-HIM** (in Cantonese): *Madam President, having listened to the Secretary's reply, I, being a DC member myself, feel very sad for it transpires that DC members do not enjoy any protection at all. Under Article 97 of the Basic Law, DC members are members of district organizations which are not organs of political power, and their powers and functions shall be prescribed by the laws of the Hong Kong Special Administrative Region. Why are they not protected by society if they sustained injuries in the course of discharging their duties? This really beats me. Does the Government know whether members of district organizations in other countries or territories, if injured in the course of discharging their duties, are afforded special protection that are different from that for ordinary citizens? If so, please provide us with the information.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I think this mainly depends on the legal basis. As I already mentioned in the

main reply, our legal basis is the Employees' Compensation Ordinance. Section 5(1) of the Ordinance expressly provides that "if in any employment, personal injury by accident arising out of and in the course of the employment is caused to an employee, his employer shall be liable to pay compensation in accordance with this Ordinance". Under the Ordinance, we can see clearly that employees can claim compensation only if two conditions are met: First, he must be employed by an employer, and as I explained earlier, there is no employer-employee relationship between DC members and the Government; second, if he sustained injuries in an accident arising out of and in the course of the employment, then he can seek compensation under the Ordinance. Of these two conditions, the former is the most important, that is, an employer-employee relationship must exist. As I pointed out in the main reply, although DC members are members of a public body, they have no employment relationship with the Government. Therefore, under the Employees' Compensation Ordinance, DC members are not eligible for compensation.

However, I am aware that foreign countries have different legal bases or different legal grounds. So, if their laws provide for this arrangement, their situations would certainly be different from ours. At present, our legislation does not cover this situation.

**MR IP KWOK-HIM** (in Cantonese): *Madam President, I asked the Secretary to provide information on whether protection is provided in this regard in other territories or countries, but the Secretary did not do so.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, the main question did not ask for information in this regard, and I do not have such information on hand. With your permission, I shall give a written reply. (Annex I)

**MR FREDERICK FUNG** (in Cantonese): *Madam President, in part (b) of the main reply, it is mentioned that although DC members are members of a public body, they are not performing official functions on behalf of the Government. Certainly, members of public bodies are not performing official functions on behalf of the Government, for they actually perform official functions on behalf of the public bodies as mentioned by the Secretary, or on behalf of a particular DC.*

*Given that the status of DC members is established by the Government in setting up the DCs and in the elections of DC members, will the Secretary consider making DC members salaried members of the public body for which they perform functions, so that they can be provided with employment protection?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I have already stated in the main reply that we will relay such concern to the Independent Commission in the next review on the remuneration package for DC members.

Perhaps I can provide Members with some supplementary information here. As we all know, the remuneration package for DC members is subject to review by the Independent Commission; the scope of the review covers the remuneration and other accountable allowances for DC members. The Independent Commission completed a review in October last year, and the Government had taken on board a series of recommendations made by the Independent Commission to increase the allowances for operational expenses and improve the relevant arrangements with a view to facilitating the work of DC members. In the last review, the Independent Commission had discussed whether to include in the accountable allowances the costs incurred by DC members in taking out private, medical and accident insurance. But the Independent Commission considered at the time that the proposal did not have sufficient justifications and therefore did not make this recommendation. We envisage that the Independent Commission will conduct another review on the remuneration package for DC members in 2003 for implementation in the term starting from 2004. We will again relay the views expressed by Members on this occasion to the Independent Commission for consideration.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, I think the Secretary has not answered my supplementary question. The Secretary was talking about remuneration and I was talking about status, that is, making DC members salaried members of public bodies. I was talking about status, not remuneration. Will the Secretary consider that?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I already explained earlier that the criterion under section 5(1) of the Employees'



Compensation Ordinance must be met. The key word of this criterion is "employee", and the interpretation of "employee" may give rise to controversies. However, section 2 of the Ordinance already provided in express terms that "unless the context otherwise requires, the expression "employee" (僱員), subject to section 4 and the proviso to this subsection, means any person who has, either before or after the commencement of this Ordinance, entered into or works under a contract of service or apprenticeship with an employer in any employment, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing". From this, we can see that it is most important to have an employment contract, and DC members have no such contract.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, will the Secretary tell us how many DC members have been assaulted before and how many of these cases are suspected to be related to the work of the victims?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I do not have such information on hand. With your permission, I shall give a written reply. (Annex II)

**MR ANDREW CHENG** (in Cantonese): *Madam President, this question obviously involves the role or status of members of parliamentary assemblies, that is, whether being a member of a parliamentary assembly is a job or a service to society. Colleagues of this Council hold diverse views. Some Party associates of the Honourable IP Kwok-him, for instance, had said that being a member of a parliamentary assembly is social service. If the nature of their work is social service, then certainly members of parliamentary assemblies cannot be protected by the Employees' Compensation Ordinance. In the last sentence of part (b) of the main reply, the Secretary said that he would relay such concern to the Independent Commission. I have listened attentively to the replies of the Secretary and all the Secretary had said was that he would relay our views to the Independent Commission for consideration. But on the issues that we have been discussing earlier, such as members of parliamentary assemblies do not enjoy protection for retirement or personal injury because being members of parliamentary assemblies is not a job, the Secretary has not stated the position of the Government. I think the Government must take a*

*position on whether being a member of a parliamentary assembly is a public service, a job or a service to society. What is the Government's position? What criteria or conditions will the Government base on?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I believe Members will see clearly from my reply that we do not think there is an employment contract signed between the Government and DC members and so, there is no employer-employee relationship between them. Therefore, in general, taking office as a member of a parliamentary assembly should be regarded as a social service.

Earlier on when I said in part (b) of the main reply that I will relay such concern to the Independent Commission, I was only referring to the proposal of taking out insurance for DC members, but not other issues. In relation to the taking out of insurance, I already explained clearly why we would put forward this proposal again. That is because the Independent Commission had considered this issue in detail in the last review, but they did not see the need to accept the proposal. But since Members have again expressed different views on this issue in this Chamber today, I think I should relay the views of Members to the Independent Commission for consideration again.

**MR WONG YUNG-KAN** (in Cantonese): *Madam President, in its reply to Mr IP Kwok-him's question, the Government stated clearly that it would not take out insurance for DC members at this stage. Now that the Government will not take out insurance for DC members, but DC members still have to serve society and they still have to serve the people, and they may consequently offend many people. Has the Government ever thought about a decline in the number of candidates contesting in the DC elections in the next term after this incident? Or will the quality of service of DC members deteriorate as a result of DC members not daring to say anything or do anything that might offend other people?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I think DC members can see that Members of the Legislative Council are all very articulate. If Members have attended meetings of the DCs, they can also see that DC members are often fearless in expressing their views so that the Government can be exposed to the views from different quarters of the community. As regards the protection for DC members, I have mentioned in

the main reply that there is the Criminal and Law Enforcement Injuries Compensation Scheme under the SWD. If a DC member unfortunately sustained injuries, became disabled or died as a result of crimes of violence in the course of discharging their duties, the DC member himself or his dependants can claim compensation under this Scheme without having to undergo any means test. The compensation will be paid from public coffers.

**PRESIDENT** (in Cantonese): We have spent over 16 minutes on this question. Last supplementary question now.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, the Secretary already answered the question that I had intended to ask in his reply to a supplementary question earlier on and so, I do not think it necessary for me to ask my supplementary question.*

**PRESIDENT** (in Cantonese): Third question.

### **Implementation of Fixed Penalty (Public Cleanliness Offences) Ordinance**

3. **MISS EMILY LAU** (in Cantonese): *Madam President, the Administration formally implemented the Fixed Penalty (Public Cleanliness Offences) Ordinance (the Ordinance) with effect from the 10th of last month, by issuing fixed penalty notices to persons who commit offences such as littering, spitting, unauthorized display of bills, and so on. On the first day of enforcement, a law enforcement officer was assaulted and injured by an offender. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the specific benefits to public cleanliness brought about by the implementation of the new Ordinance;*
- (b) *of the difficulties currently faced by law enforcement officers, and whether it will consider providing them with more support; and*
- (c) *of the measures in place to strengthen civic education in order that more residents identify themselves with the importance of keeping Hong Kong clean?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese):

Madam President,

- (a) The aim of the Ordinance is to increase the deterrent effect against common public cleanliness offences, namely littering, spitting, unauthorized display of bills or posters, and fouling of street by dog faeces.

From the observation of the enforcement departments, the Ordinance has brought about general and visible improvement to the cleanliness of Hong Kong.

Since the commencement of enforcement on 10 June 2002 after a two-week grace period, front-line staff have noticed a remarkable decrease in littering in public places, including littering black spots such as bus stops, street crossings, ferry concourses, public transport interchanges, and on-street markets. The enforcement departments also observed better utilization of litter containers by the public to deposit litter and cigarette butts. With regard to the unauthorized display of bills and posters, enforcement departments also noticed a significant decrease in the number of such activities in black spots such as Mong Kok, Yau Ma Tei, Wan Chai and Causeway Bay. Media reports also support the Government's assessment.

- (b) In general, the feedback from enforcement departments was that the implementation of the new law was generally smooth. For example, between 10 and 23 June, out of a total of 619 enforcement actions taken by the Food and Environment Hygiene Department (FEHD), 616 fixed penalty notices were issued and 596 of them were issued without any difficulty. Of the remaining 23 cases, 20 fixed penalty notices were issued after police assistance was sought to obtain the offenders' proof of identity. One case required the police to accompany the offender to a police station in order to obtain proof of identity, and two cases involved minor assaults on FEHD officers.

Prior to the implementation of the fixed penalty system, the FEHD provided training for enforcement staff of all departments to handle

possible difficult situations. For the FEHD, officers are provided with telecommunication equipment (portable transceivers or mobile phones) to facilitate them to enlist the support of colleagues patrolling in the vicinity and, if necessary, the assistance of police officers. Other enforcement departments also have similar or other support arrangements.

Despite the minor assault cases mentioned above, enforcement officers are in general satisfied with the current support arrangements. We will, nevertheless, continue to explore ways to further enhance support for them.

- (c) Since the launch of the new Clean Hong Kong Programme in December 2000, the Government has put great emphasis on public education, which is pivotal in raising public awareness on the need to keep a clean and tidy environment. The Steering Committee on Clean Hong Kong, comprising representatives from different sectors of the community, as well as officials, was set up to co-ordinate territory-wide Clean Hong Kong initiatives and examine ways to improve the Government's efforts in improving environmental hygiene. The Publicity and Public Education Group and the District Promotion Committee of the Steering Committee assist in the formulation of strategies on public education and community involvement.

Another important element in promoting Clean Hong Kong is school education. The FEHD and the Education Department have already incorporated Clean Hong Kong information in primary and secondary school curriculum. The two departments have also been organizing a wide range of Clean Hong Kong extra-curricular activities, such as project learning competitions, interactive school outreach programmes and Community Youth Club activities for secondary students, and school talks for primary schools and kindergartens. These school curriculum messages and extra-curricular activities help foster a keep Hong Kong clean culture among students.

These specific public education efforts are supplemented by publicity and public education items such as television and radio

Announcements of Public Interests, posters and banners, video, pamphlets, stickers, website, newspaper supplements, and media interviews.

As regards community involvement, the 18 District Clean Hong Kong Committees, each chaired by the respective District Council Vice-chairmen, have been set up to organize district educational and publicity events, as well as actual cleansing activities to disseminate the Clean Hong Kong message. In 2001, over 160 district activities were held. The FEHD also operates a scheme to provide funding assistance to resident and other civic organizations in organizing Clean Hong Kong projects. In this regard, 87 such projects were arranged in 2001 with over 20 000 participants. In addition, the FEHD works closely with various non-government organizations and non-profit-making bodies, such as artists' associations, to carry out various kinds of community involvement programmes.

**MISS EMILY LAU** (in Cantonese): *Madam President, I believe enforcement of the Ordinance is very important to the cause of keeping Hong Kong clean. It is mentioned by the Secretary in his main reply that some 600 fixed penalty notices were issued in around 10 days, and there was some minor trouble in 23 enforcement actions, two of which involved minor assaults on FEHD officers. We have learnt of one of these two cases from the media, but I wonder if the Secretary can tell us something about the other case. Besides, according to the Secretary, police assistance was sought in 20 cases to obtain the offenders' proof of identity, and one case required the police to accompany the offender to a police station in order to obtain proof of identity. In the light of all these incidents, does the Secretary think that FEHD officers are in fact under very serious threat in the course of enforcement? And, does he think that the goal of keeping Hong Kong clean is still attainable?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I agree with the Honourable Emily LAU that we must stick to our efforts before we can change people's habits. The enforcement officers of the FEHD have all received the relevant training, and they thus know what they

should do under these circumstances. We may, however, still consider the possibility of enhancing the training. As for the assistance available to enforcement officers, as I point out in the main reply, there are actually quite a number of measures, such as the provision of mobile telephones and support from other officers. I think that during the period of transition, there are bound to be some minor clashes. But we will monitor the situation to see if there is any need to change the current system.

In the second case mentioned by Miss Emily LAU, when one FEHD enforcement officer was about to issue a fixed penalty notice, the person concerned refused to accept the notice and wanted to escape. The enforcement officer gave chase and called for police assistance. A minor assault on the enforcement officer thus ensued. These two assaults were of a minor nature, involving mostly punches only. The enforcement officers concerned were subsequently sent to hospital for examination, and there was no need for hospitalization.

**MR TOMMY CHEUNG** (in Cantonese): *Madam President, in part (b) of the Secretary's main reply, there is an array of statistics on the number of fixed penalty notices issued. As far as I know, the Ordinance also empowers other government departments to issue fixed penalty notices. In this connection, may I ask the Secretary how many fixed penalty notices other government departments have issued? Have they met with such huge difficulties as those encountered by FEHD staff in the course of enforcement? Or, has their enforcement work been much smoother, meaning that FEHD officers have been the only ones running into trouble?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, besides the FEHD, other government departments can also enforce the Ordinance. I will provide the Honourable Tommy CHEUNG with the relevant statistics in writing. (Annex III) However, the bulk of such fixed penalty notices have been issued by FEHD officers. Since FEHD officers are mostly stationed at littering black spots and their contact with members of the public is thus the most frequent, I think it is understandable that they are more likely to encounter clashes. I do not know whether other departments have also encountered the same problem. But I will make an enquiry with them.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Secretary's main reply indicates that following the implementation of the measure of issuing \$600 fixed penalty notices in June, there has been an increase in the incidence of scuffles between enforcement officers and "litter bugs". This can aptly reflect the huge financial impact of a \$600 fine on "litter bugs". In this connection, I wish to know whether the Secretary will consider any alternative penalty while stepping up publicity work in general. I mean, will he consider the appointment of littering offenders as cleanliness ambassadors and require them to assist in prosecuting "litter bugs", or to do some voluntary work such as cleaning back alleys?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, as mentioned in my main reply, following the implementation of the Ordinance, one can actually notice from media reports, enforcement officers' feedback and public responses that members of the public have now become more cautious than before, and they no longer litter wherever they like. In the two weeks following the implementation of the Ordinance, we issued some 600 fixed penalty notices, and this is quite close to the level in the past. In the past, we issued about 16 000 to 19 000 fixed penalty notices against littering every year. Simple calculations will show that the weekly average in the past was about 300 to 400 notices. This can show that we have not issued more notices because of the increased fine. Besides, we can also note that the current level of \$600 has indeed achieved a deterrent effect. I think we will not consider other alternatives for the time being. The existing civic education efforts and fixed penalty should be able to achieve acceptable results. We will continue to monitor the situation and see if the *status quo* can be maintained.*

**MR MICHAEL MAK** (in Cantonese): *Madam President, the Keep Hong Kong Clean Campaign has been going on for two to three decades, but I think it has achieved very little effect. Had the opposite been the case, it would not have been necessary for us to amend the Ordinance and raise the fixed penalty to \$600. But there have been many signs that members of the public will simply not bother to make Hong Kong any cleaner because of the \$600 fine.*

**PRESIDENT** (in Cantonese): *Mr Michael MAK, what actually is your supplementary question?*



**MR MICHAEL MAK** (in Cantonese): *Madam President, I hope the Secretary can inform us of the criteria adopted to assess the effectiveness of the Keep Hong Kong Clean Campaign. Besides, as asked by the Honourable CHAN Kam-lam a moment ago, will the Secretary consider the adoption of social service orders as a means of raising the "keep Hong Kong clean" awareness of "litter bugs"?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I have already explained in the main reply and my reply to Members' supplementary questions that following the implementation of the Ordinance, I have noticed some obvious changes. I had a walkabout in the streets of Mong Kok yesterday, and I was able to see that they were much cleaner than before. We will of course continue to check whether the *status quo* can be maintained. I agree that civic education is a very important segment of the whole programme, which is why we will do more in this respect. But to improve the situation, we must promote civic education on a long-term, continuous basis, instead of just making efforts in one or two years. But I must repeat that the fixed penalty has definitely achieved certain effect. The implementation of government strategies on changing certain types of behaviour generally requires the support of civic education and legislation. Members have asked me whether other measures will be introduced to deter littering. I would reply that we will never rule that out. If the current measure fails to work well in the future, we will consider other possibilities. But I think that the current measure should work well. We will continue to review the situation.

**PRESIDENT** (in Cantonese): We have spent more than 16 minutes on this question. Last supplementary question.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, at the end of part (b) of the main reply, the Secretary states that "we will, nevertheless, continue to explore ways to enhance support for them". In the month following the implementation of the Ordinance, several incidents of assault on enforcement officers occurred. May I ask the Secretary how the Government can come to their assistance? Besides, in view of the incidents in the past one month, will the Government increase the protection for its staff by, for example, taking out insurance for them?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, we normally do of course take out labour insurance, and I think we may not necessarily need to enhance the protection in this regard. As for other forms of assistance, many possibilities can be considered, one example being staff training. We may explore whether there is a need to enhance staff training. At present, our training is mainly on how enforcement officers should deal with more difficult situations, and we also liaise with organizations providing assistance to ascertain their response time in case our officers seek assistance from them. We will consider all these possibilities. The relevant government departments will also examine with their staff together to identify effective ways of enhancing assistance.

**PRESIDENT** (in Cantonese): Fourth question.

**Passing Rates of Language Proficiency Assessment for Teachers (English Language)**

4. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, it is learnt that the passing rates of various papers of the Language Proficiency Assessment for Teachers (English Language), released at the end of May, showed a drastic decline as compared to those of last year. As the authorities concerned had decided not to require the candidates to reveal whether they were serving teachers, teacher trainees or other persons, so as to minimize the psychological burden on them, there is no way for the authorities to distinguish the performance of different groups of candidates. In this regard, will the Government inform this Council:*

- (a) *of the justifications in support of the argument that "the psychological burden on the candidates will be alleviated if they are not required to reveal their status"; whether it will alter this practice by requiring candidates to reveal their status, with a view to obtaining accurate information on the performance of different groups of candidates for drawing up effective measures to improve their proficiency in English;*
- (b) *whether it has assessed the reasons for the decline in this year's passing rates, and whether it will form a task force to conduct a comprehensive study of the relevant factors and solutions; and*

- (c) *of the further measures to ensure that all serving English teachers will attain the stipulated benchmark on English standard by the end of the 2005-06 school year?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the Language Proficiency Assessment for Teachers (LPAT) is but one of the means by which serving English teachers attain the language proficiency requirement. Besides taking the assessment, teachers may apply for exemption, undertake training courses or meet the requirement through a combination of the ways mentioned. The Education Department (ED) has asked each school to set a clear timetable for its English teachers to participate in training, attempt the assessment or apply for exemption as early as possible, thus ensuring that they attain the requirement within the specified timeframe.

I would now reply to the Honourable YEUNG Yiu-chung's questions as follows:

- (a) We have consulted the Advisory Committee on Teacher Education and Qualifications (ACTEQ) that comprises front-line principals and teachers on whether candidates should be required to declare their status. The ACTEQ advised that since requiring candidates to declare their status necessitates the verification of their particulars, teachers taking the assessment may have worries that their status would be known to the school and the ED and their career would be affected by unsatisfactory results. Furthermore, as serving teachers may attain the language proficiency requirement by various means and report to the ED, the latter is able to monitor the progress of attainment without bringing too much pressure on teachers. As such, the ACTEQ does not consider it necessary to require candidates to declare their status. It, however, takes the view that the ED should make an annual announcement of the total number of teachers who have attained the language proficiency requirement by various means, and encourage individual schools to reveal the progress of attainment for the information of parents and the public.

As for assisting candidates in improving their performance in the assessment, we take the initiative to disseminate the Chief

Examiners' observations to the candidates, all primary and secondary schools as well as teacher education institutes upon completion of each LPAT. The relevant assessment reports are also uploaded onto the ED's website. Such measures allow candidates and those who intend to take the assessment to learn about the common errors identified, thereby helping them perceive their own weaknesses and make improvements accordingly. This year, apart from disseminating the Chief Examiners' observations on candidates' performance, we intend to publish some supplementary notes to the existing syllabuses to enable candidates to have a better understanding of the requirements of each part of the individual papers.

- (b) Jointly organized by the Hong Kong Examinations Authority (HKEA) and the ED, the LPAT is a criterion-referenced assessment. It is different from norm-referenced examinations of which the passing rate is relatively stable. Candidates will be considered as having attained the required level only if they reach the stipulated standard for each specified item of the assessment. The English LPAT consists of five papers, namely Reading, Writing, Listening, Speaking and Classroom Language Assessment. Candidates may choose to attempt one or more papers in each assessment.

In the 2002 LPAT, the passing rates for the papers on Speaking and Classroom Language Assessment are slightly higher whereas those on Reading, Writing and Listening were lower as compared with the 2001 LPAT. This reflects the difference in language ability of candidates taking the two assessments. Furthermore, since the total number of candidates sitting for the 2001 and 2002 English LPAT were merely around 400 and 800 respectively, their performance can by no means represent the overall language standard of the teaching profession.

With regard to the setting up of a task force, since the HKEA will conduct an analysis of the assessment results every year for subsequent publication of reports on candidates' performance and suggestions for improvement, setting up a separate task force is considered unnecessary.

- (c) The Administration has set a clear target for English teachers to attain the language proficiency requirement by 31 August 2006. We encourage serving English teachers to meet the requirement as soon as possible by various means such as participating in training, attempting the assessment or applying for exemption. Besides, we have earmarked resources for the provision of adequate training places for serving teachers. As at the end of June this year, some 3 700 English teachers attained the requirement or were undertaking training courses, accounting for about one quarter of the total number of English teachers in primary and secondary schools.

The ED will monitor the progress of individual schools according to the programmes drawn up by them for attaining the requirement and actively assist school sponsoring bodies in organizing appropriate school-based courses for their schools. We believe that principals and teachers will act in the interests of students and, in order to build up parents' confidence in them, schools will make systematic arrangements for their English teachers to participate in training, attempt the assessment or apply for exemption, thus ensuring that their English teachers attain the requirement within the specified timeframe.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, since there are different requirements for the English teachers in primary and secondary schools in terms of qualifications and remuneration, why do they have to attain the same language proficiency level? Is it unreasonable? Is the Government prepared to review the requirements?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I am grateful to Mr YEUNG for his views. Although the English and teaching methods usually used by English teachers in primary and secondary schools are different; we are now discussing the basic language proficiency. Actually, the Government has studied the issue and the ACTEQ mentioned by me has also discussed the matter. They take the view that there should not be much difference between English teachers in primary and secondary schools, therefore, we require them to attain the same language proficiency level.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the next three school years before 31 August 2006 would be the peak period for teachers to take courses for attaining the benchmark on English standard. Schools may have to arrange for teachers to take up further study in batches, which would definitely affect the operation and teaching in schools. Would the Government inform this Council whether it would consider providing a suitable number of substitute teachers to alleviate the workload of teachers taking up further study so that they could concentrate on the further studies, without affecting the teaching and administration of schools and having to bear excessive pressure of work?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Madam President, I would like to thank Mr CHEUNG for his opinions. I have stated in my main reply that our objective is that all serving English teachers would attain the stipulated benchmark on English standard before the end of the 2005-06 school year. The current progress indicates that around one quarter of English teachers have already attained the standard or are receiving training. At this stage, we think that we should be able to achieve the objective on the basis of the current progress. However, we would put on record the proposal just made by Mr CHEUNG and refer it to the Education and Manpower Bureau for further study.*

**MR JASPER TSANG** (in Cantonese): *Madam President, although it is a Language Proficiency Assessment for Teachers (English Language), as far as I know, many non-serving teachers have sat for the two rounds of assessment. Though the Government has announced the overall assessment result, it has failed to distinguish between the results of serving and non-serving teachers, therefore, the public guessed that it might be unfair to serving teachers. The Secretary stated in his main reply that candidates were not required to reveal their status to avoid bringing too much pressure on teachers. Should the Government consider requiring candidates to indicate for statistical purpose whether they are teachers or the classes they are teaching and years of teaching experience while the Government does not need to verify such data? Similar to surveys conducted by the Home Affairs Department, although the interviewees would be asked about their age and income, such information would not be verified. If it is stated that the information is collected for statistical purpose, there will not be any incentive for candidates to lie. If so, would the public get a more accurate picture when the results are announced?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):

Madam President, I have said in my main reply that teachers may have worries about this, so, we have not asked them to declare their status. Mr TSANG has proposed asking teachers to declare their status for statistical purpose but not verifying such information. Of course, we can study the matter further. However, the actual difficulty is, if we do not verify the information after candidates have declared their status even for statistical purpose only, we may not be able to grasp the most accurate information. In any case, we would further consider the feasibility of the proposal.

I wish to add that I fully appreciate Mr TSANG's point in asking the question because parents would also like to know the language proficiency of serving teachers and how many teachers have attained the requirement for language proficiency. Therefore, starting from the 2003-04 school year, the ED would encourage schools to publish in the school profiles the progress schedule drawn up for attaining the requirement in the year, that is, information such as when teachers would attain the requirement for language proficiency and how many teachers are receiving training, for reference by parents. In addition to the proposal just made by Mr TSANG, it is another way to let parents know the progress of serving teachers in meeting the language proficiency requirement.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in part (c) of his main reply, the Secretary has stated that only one quarter of English teachers in primary and secondary schools are receiving training or have attained the requirement within these two years, in other words, three quarters of the teachers will only have four years to sit for the assessment. Is it not an extravagant wish for three quarters of the teachers to meet the requirement within four years? If it is not feasible, what is the Government going to do?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):

Madam President, once a project has begun, it would gain momentum gradually. At present, one quarter of teachers have attained the requirement for language proficiency or taken up further study. There are four years to go and I believe more and more teachers would receive training or sit for the assessment. We would allocate resources every year to subsidize teachers taking training courses. I have also said in my main reply that the ED would monitor the progress of

every school. From next year onwards, we would require schools to provide the relevant information in their profiles. When necessary, we would consider taking further actions to achieve our objective on schedule.

**MR TOMMY CHEUNG** (in Cantonese): *Madam President, the language proficiency assessment is open for application by English teachers. Would the Secretary inform this Council why teachers of other subjects using English as the medium of instruction in the 100-odd schools do not have to sit for the assessment? Has the Government formulated a long-term policy requiring such teachers to sit for the language proficiency assessment?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in this respect, I think we must follow the prescribed order when handling the issue. To upgrade the English language proficiency of teachers, I think it is right to start with English teachers. As to whether the assessment should be extended to teachers who use English as the medium of instruction in the future, we might discuss the matter in the future. If schools are allowed to use English as the medium of instruction, they must ensure that the English language proficiency of teachers has reached a certain standard.

**PRESIDENT** (in Cantonese): Fifth question.

### **Fraud Cases Concerning Modelling Agencies**

5. **MR LAU KONG-WAH** (in Cantonese): *Madam President, as there have been reports from time to time about swindlers setting up modelling agencies and approaching people on the street with the intent to defraud, on the pretext of arranging modelling jobs for them, will the Government inform this Council of:*

- (a) *the number of such fraud cases cracked down by the police, the number of such agencies involved, as well as the average and the highest amounts of money that the victims lost, in each of the past three years;*
- (b) *the common ploys used by the swindlers, whether the majority of the victims were young people, and whether there was a higher incidence of such cases during the summer vacation; and*



- (c) *the measures taken against such frauds, and whether it has reviewed the effectiveness of these measures?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, regarding the Honourable LAU Kong-wah's question:

- (a) The number of model agencies complained against, the number of model agencies found to have involved in criminal matters, the number of cases detected by the police and the average amount of loss by complainants in the past three years are provided at Annex:

<i>Year</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
Number of model agencies complained against	25	20	5
Number of agencies found to have been involved in criminal matters	11	9	1
Number of cases detected	9	5	1
Average amount of loss by complainants	\$28,000	\$24,000	\$13,500

Since the police do not keep statistics on the highest amount of money that the individual complainant has lost in such deception cases, the requested information is not available.

- (b) The *modus operandi* of swindlers is set out below:
- swindlers usually use the name of a registered model agency to publish recruitment advertisements in newspapers and publications and recruit staff such as office assistants. When the victims are interviewed for the job, they will be persuaded to change to work as a model for advertisements or photo-taking, and so on. Swindlers will also approach the victims on the streets by pretending to be agents of film companies;
  - swindlers often persuade the victims to pay in advance an amount of money, claiming that it serves as the administration

expenses of the model agencies to arrange jobs for them. To convince the victims to pay for training courses, some might say that the victims have to complete training courses on beauty treatment before they can do modelling work with attractive salary. After the victims have paid the money, the model agencies will say that no appropriate job is available and ask the victims to wait for further news from the agencies. Moreover, some victims might be asked to accept tasks which are different from what is originally agreed, like working as a contract actor with low pay, or as a model for photo-taking, and so on.

According to police's information, victims of deception cases involving model agencies range from 19 to 42 years of age. Amongst these, 90% are young persons aged from 19 to 22. The police do not have information indicating that such companies are more active during summer holiday.

- (c) The police have taken various measures to combat deception cases involving model agencies. The measures include:
- monitoring deception cases involving model agencies, the crime trend as well as any change in the *modus operandi*;
  - arousing public awareness of this type of scam through mass media and other channels;
  - gathering intelligence on suspicious model agencies, both through police's internal communications and liaison with the Consumer Council;
  - taking enforcement actions against identified culprits, companies and personalities; and
  - enhancing communication with the Labour Department and the Consumer Council in respect of activities of suspicious model agencies.

With vigorous enforcement actions by the police and successful prosecutions, the problem of deception cases involving model agencies is under control. Based on the cases reported in the first five months in 2002, the number of victims, the number of model agencies involved in deception and the amount of loss have significantly reduced by 45%, 50% and 63% respectively when compared with the figures of the corresponding period in 2001.

The police will regularly review the effectiveness of the above measures, and will make the necessary adjustment to existing strategies, if needed, to tackle this problem.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, could the Secretary provide information on the total number of victims and the total amount of loss in such cases in the past few years? The Secretary mentioned in the Annex that the numbers of cases detected in 1999, 2000 and 2001 were nine, five and one respectively. In how many of these cases did the prosecution successfully bring about convictions and whether the penalties were sufficient to deter these type of cases from recurring?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the police only keep a record of the numbers of complainants against deception by model agencies: 93 in 1999, 75 in 2000 and 17 in 2001. The police only keep a record of the numbers of complainants because some of the cases were found not to involve any criminality upon investigation and not all complainants were victims of deception, therefore we do not have the numbers of victims at hand, but only those of complainants.

Concerning the amount of money involved, the information that I have with me indicates that in 2001, 10 companies were involved and the amount of loss was \$95,000, whereas in the first five months of this year, five companies were involved and the amount of loss was \$60,000.

In fact, the number of deception cases involving model agencies and the amount of money involved have both decreased substantially. During the peak period in 1997 and 1998, the total amount of loss in relevant deception cases was \$43 million; following a series of prosecutions in 1998, the authorities

successfully prosecuted the masterminds of deception cases involving model agencies and confiscated \$2 million and the amount of loss decreased substantially in 2001. From this, it can be seen that deception involving model agencies has been put under control. In the relevant cases, a total of 31 persons were convicted, and most of them were charged with offences such as conspiracy to deceive, obtaining property by deception and theft, and were sentenced to terms of imprisonment ranging from eight months to three years by the Court.

**MR MICHAEL MAK** (in Cantonese): *Madam President, according to the Annex in the main reply provided by the Secretary, the numbers of complaints and cases detected are both on the decrease, which seems to suggest that, as stated by the Secretary, the actions taken by the authorities are indeed effective. However, I believe the Government should enhance education on this. The Secretary said in the main reply that the police would raise public awareness of this type of scam by educating the public through the mass media and other channels. May I ask the Secretary if this type of education is carried out in schools? We know that the targets of this kind of deception cases are mainly youths between 19 to 22 years of age. Was this group of young people deceived because of their aspiration to vanity or eagerness to find a job? May I ask the Secretary what efforts have been made in schools in order to prevent young people from being deceived?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the police always keep close contact with schools and youth organizations. For example, last year the police organized activities and seminars for young people through the Junior Police Call, including visits to the Commercial Crime Bureau, and explained in detail to young people the *modus operandi* of model agencies involved in deception cases, in order to raise their alertness against deception. In addition, the police also work in conjunction with the Labour Department in distributing leaflets to job-seekers and explaining to them these pitfalls, so as to caution them against falling into them.

**MR JAMES TO** (in Cantonese): *Madam President, the main question asked by Mr LAU Kong-wah is about deception cases involving model agencies and the relevant figures seem to be on the decrease. However, may I ask the Secretary if she knows whether there is a trend of increase in other deception cases relating*

*to job seeking in recent months, such as those so-called employment crimes in which it is falsely claimed that arrangements can be made for victims to become singers?*

**PRESIDENT** (in Cantonese): Mr James TO, your supplementary question is beyond the scope of the main question. Can you make it relevant to the scope of the main question?

**MR JAMES TO** (in Cantonese): *Madam President, I ask you to rule on this. Since as far as I understand it, such deception cases involving model agencies is a type of employment crime, I would like the Government to tell us whether there is a trend for deception cases involving model agencies to shift to other forms of employment crime.*

**PRESIDENT** (in Cantonese): Mr TO, I rule that your supplementary question is beyond the scope of the main question and the Secretary for Security needs not answer it.

Sixth question.

### **Instruction on Operating Less Primary One Classes**

6. **MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, it has been reported that the Education Department (ED) has instructed 47 primary schools to operate less Primary One (P1) classes in the coming school year, and the total number of classes reduced is as many as 130. In this connection, will the Government inform this Council:*

- (a) *of the justifications for and the details of the ED's instruction;*
- (b) *whether the number of teaching posts in such schools will be reduced as a result; the ED will ask such schools to make some teachers redundant, and the amounts of subsidy granted to such schools will be reduced; and*

- (c) *whether the ED has considered adopting alternative measures (such as reducing the size of each class); if it has, of the details; if it has not, the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):  
Madam President,

- (a) Owing to the decrease in the number of school-age children, there is a drop of about 5 400 in the number of applicants for P1 Admission this year when compared with last year. As a result, the demand for P1 classes for the 2002-03 school year will decrease by 128 classes when compared with this year. That means over 100 primary schools will have to reduce their P1 classes in the coming school year.

The overall number of P1 classes in a school net is based on the actual demand for P1 places within the net. The number of P1 classes which a primary school may operate depends on a number of factors including the number of classrooms available, the class structure and parental choices. Based on the number of children already admitted by the school during the "Discretionary Places Admission" stage and the result of a computer analysis of the actual choices made by parents during the "Central Allocation" stage, the ED will work out the number of children to be allocated to each primary school. Normally, if the number of children allocated to a P1 class of a school is less than half of the class size, and there are still unfilled P1 school places in other schools of the same school net, the school may not be allowed to operate that class.

- (b) Decrease in the total number of classes (including P1 to P6 classes) operated in a primary school will lead to a corresponding reduction in teaching posts. In the case of an aided school, the subvention it receives, which is adjusted according to the number of classes, will also decrease correspondingly. Affected teachers in a government primary school will be deployed to other government schools. As for surplus teachers in an aided primary school, the ED will provide placement service to help them find teaching employment in other aided primary schools.

- (c) Based on the principle of reasonable resource utilization, we will reduce P1 classes in response to the decreased demand for school places.

With regard to the proposal of the Honourable LEUNG Yiu-chung on the reduction of class size, we have to take into account the priorities of our education policy as a whole and their financial implications. A decision cannot be reached at this juncture.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, I remember that in 1992, the Education Commission expressed the hope to reduce the class size until it reached 32 in the academic year 2004-05. However, the authorities said in 1997 that it was not possible to do so because whole-day schooling had to be implemented, so two students had to be added to each class instead. That is to say, not only has the class size not been reduced at present, on the contrary, it is even farther removed from the ideal.*

*In reply to part (a) of my main question, the Secretary said that the number of school-age children had decreased. May I ask the Secretary if this is a trend? If this is a continuing trend, more than 5 000 places will be reduced this year, and so it will be next year, that means a total of 10 000 places will be reduced. May I ask the Secretary if the money is not used to reduce the class size, then how the surplus funds would be used? If the surplus funds are not allocated to resources used in other areas, will they be returned to the central government? If not, then how will the funds be effectively used?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, we must understand that according to the class size we have determined, there are 32 students in each activity approach class and 37 in each non-activity approach class. If the number of school-age students decreases, then it is necessary for us to reduce the total number of P1 classes. As to whether there will be surplus resources for deployment to other areas as a result of the reduction in P1 classes, I believe the issue should be dealt with separately. The Government or the Education and Manpower Bureau will make appropriate proposals or decisions on overall education resources each year and we should not make decisions immediately based on just one factor.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, has your supplementary not been answered?

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary has not answered whether he reckons that there is a downward trend in the number of school-age children; if so, this trend will have an effect on the future and not just for a short period of time. So how would the funds involved be used? I hope the Secretary will inform this Council as to whether he reckons that this is a trend.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, according to the existing information, there is indeed a downward trend in the number of P1 students in the next few years. From now to 2005, there is a trend of decrease in the number of children who are six years old, but from 2005 onwards, the number will rise again. I would like to point out that we have many goals in education, for example, we have laid down the timeframe when the target of implementing whole-day schooling can be achieved according to the class size. As to Mr LEUNG's views, we will take them into account in the forthcoming review on overall education development and resource allocation.

**MR SZETO WAH** (in Cantonese): *Madam President, since 1974, the Hong Kong Professional Teachers' Union will carry out negotiations each year with the ED on arrangements for the transfer of teachers affected by the reduction in the number of classes to other schools and each year, agreements could be reached. The ED undertook in the past that not a single teacher in subsidized schools would lose his or her job because of a reduction in the number of classes and that undertaking has always existed. Is such an undertaking still valid now?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I have said in the main reply that the ED will provide placement service to help surplus teachers. As far as this year is concerned, the reduction in the number of P1 classes has resulted in more than a hundred surplus teachers, but this figure is still less than the 400 surplus teachers



estimated by the ED. According to the experience of the ED in providing placement service to surplus teachers in the past, it should be able to find teaching posts for all these teachers. Therefore, in this regard, the ED is confident of assisting these surplus teachers to find employment successfully.

**PRESIDENT** (in Cantonese): Mr SZETO Wah, has your supplementary not been answered?

**MR SZETO WAH** (in Cantonese): *Madam President, it has been. However, can I ask one more supplementary?*

**PRESIDENT** (in Cantonese): I am sorry, Mr SZETO Wah, you cannot do so now. Please wait in order for your turn.

**DR YEUNG SUM** (in Cantonese): *Madam President, I learn from the information provided by the Secretary that the present birth rate and the number of school-age children for P1 classes are on a downward trend. Members of the Legislative Council and the education sector have persistently demanded the Government to reduce the class size. Will the Government seize this opportunity to review the whole situation?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the policies on education and the goals of education of the Government of the Hong Kong Special Administrative Region can be classified into many types. On the effects of the decrease in the number of school-age children for P1, I believe the Education and Manpower Bureau will take the effects of this trend into consideration when determining the future direction for the development of education or any other goals, but at the present stage, we certainly cannot make any undertaking or decision immediately.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the number of six-years-olds will decrease from 75 000 in 2002 to 60 000 in 2006. The school age for P1 classes is about six, and the number of persons at this age will*

*be 15 000 less by 2006. If we make a rough calculation on the basis that there are 30 students in a class, the Government has to reduce the number of P1 classes by more than 400 in the next few years. In fact, this offers a golden opportunity to reduce the class size without increasing resources substantially or building more schools. Will the Government adopt a "soft landing" approach and implement a policy that can please all parties by according priority to districts where the number of classes have to be reduced and cut the class size to 30 or even 25, so as to implement the goal of the Chief Executive, Mr TUNG Chee-hwa, to improve the quality of basic education?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, as I have said, the Government has many goals in education. One of them is to achieve the goal of whole-day schooling by say, the academic year 2007-08 according to the present number of classes and number of students, having regard to our overall programme of school construction. What Mr CHEUNG suggested just now, that is, the Government should make use of the room, flexibility and resources available from now to 2006 due to a drop in the number of P1 students to cut the class size, is of course an excellent idea. I believe this is a goal that the education sector hopes to achieve. I can only say that I will make a note of this opinion, and I believe the Education and Manpower Bureau will certainly consider this matter in detail in the future.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, concerning the reduction in the number of classes as a result of the natural decrease in population, we find that on the one hand, in some districts schools cannot enroll enough students and the number of classes is reduced, but on the other, the Government still keeps building schools. May I ask the Secretary if a review on planning will be conducted? For example, some secondary schools in Sha Tin cannot enroll enough students, but the Government is still building secondary schools.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, it is difficult to generalize on this issue. Concerning the situation in individual schools and even in individual school nets, perhaps Mr YEUNG could provide more specific information to us later. I believe the

Education and Manpower Bureau will follow this up on an individual basis. However, as I have said, given the overall reduction in the number of classes presently, there is indeed room and flexibility to deal with individual cases.

**MISS EMILY LAU** (in Cantonese): *Madam President, the goal of reducing the class size is supported by Members of the Legislative Council down the years. What the Honourable LEUNG Yiu-chung suggested earlier is in fact a goal laid down by the Government 10 years ago. The present approach of the Government is to reduce the number of classes but not the class size. However, the classrooms are being left vacant and the schools are not going to shrink in size. In fact, the resources for education are in fact available. May I ask the Secretary how these resources will be used? Since resources are available, why do we not just help things along and let schools benefit from this? Furthermore, under certain circumstances, the Government would allow schools to reduce the class size, so the figures mentioned by the Secretary is not really so rigid.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I understand Members' point, that is, since the number of classes in schools has been reduced, we should consider how to use the saved resources appropriately in future. However, as I have explained, we have to consider if various aspects can tie in with other goals of education and we cannot give any undertaking or make any decision at present. However, we do recognize that the present situation has indeed given rise to more room and flexibility. I have also made it clear just now that if individual school has special educational needs or has to reduce the class size, the present situation has also provided the opportunity and flexibility for us to consider the problem more deeply to find a solution.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, the Secretary said in part (a) of the main reply that if there are two schools in the same school net and one of them cannot enroll enough students, then it will not be allowed to operate that class. If two schools in the same school net cannot enroll enough students, then how would the authorities decide? Which school will be allowed to operate that class and which one will not be allowed to do so?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I have said in the main reply that if the number of children allocated to a P1 class of a school is less than half of the class size, and there are still unfilled places in other schools of the same net, then of course the extra children from the schools that have enrolled excessively will be transferred to schools with unfilled places. As to the actual operation, it will be decided by the ED according to the situation of each school in a school net, having regard to such factors as the enrollment situation, parental choices and any other special factors and it is not possible to generalize.

**PRESIDENT** (in Cantonese): We have spent over 16 minutes on this question. Last supplementary.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, if the public is consulted, I believe the public will also fully support reducing the class size so that teachers can put more effort into supervising each student. The Secretary said in part (c) of the main reply that the priorities of our education as a whole and their financial implications must be taken into account. What priority has the Government accorded this matter, the highest or the lowest priority? Meanwhile, in respect of financial implications, the Financial Secretary said that there would be an annual increase of 1% in expenditure. Will the Secretary try to secure an increase of more than 1% in order to improve the quality of education?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, regarding the priority of a reduction in class size in the overall education policy, I believe we should leave this to holistic consideration by the newly appointed Secretary for Education and Manpower. In fact, the goal of reducing the class size also involves quite a lot of resources. On a rough estimation, if the size of each class is reduced by two students from P1 onwards, then 743 additional classes, equivalent to 25 schools with 37 students in each class, may be required after six years. I have also said that there are many different goals in education, one of which is to implement whole-day schooling in primary schools in the academic year 2007-08. To achieve this goal, we have to build more schools. Therefore, the Government must consider various goals and proposals as a whole before making a decision. I believe today is not the day to do so.

**PRESIDENT** (in Cantonese): Mr LEE, which part of your supplementary has not been answered?

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the Secretary has not replied as to what priority is accorded to the goal in question. However, if he thinks that he cannot give a reply now because he is only doubling as the Secretary for Education and Manpower, can he request the new Secretary to give a written reply in future?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I can make a note of the relevant suggestion, but I believe I have to leave it to the Secretary to decide and reply fully at a time he thinks appropriate.

**PRESIDENT** (in Cantonese): Question time ends here.

## WRITTEN ANSWERS TO QUESTIONS

### Statistics On Gross Domestic Product

7. **MR MARTIN LEE** (in Chinese): *Madam President, will the Government:*

- (a) *provide this Council with a "long-term growth curve" of Hong Kong's Gross Domestic Product (GDP) (compiled by using the expenditure approach and applicable to the ensuing text) calculated on the basis of constant market prices, and with an analysis of the duration of each economic cycle and the years when each cycle began and ended, since GDP was first compiled;*
- (b) *provide an analysis of the short-term impact of the public expenditure on GDP; and*
- (c) *advise this Council of the elasticity of GDP relative to the public expenditure and of the multiplier effect of public expenditure, calculated by using the latest data;*

*if the above figures are not available, of the reasons for that, and whether it plans to make such calculations?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): Madam President,

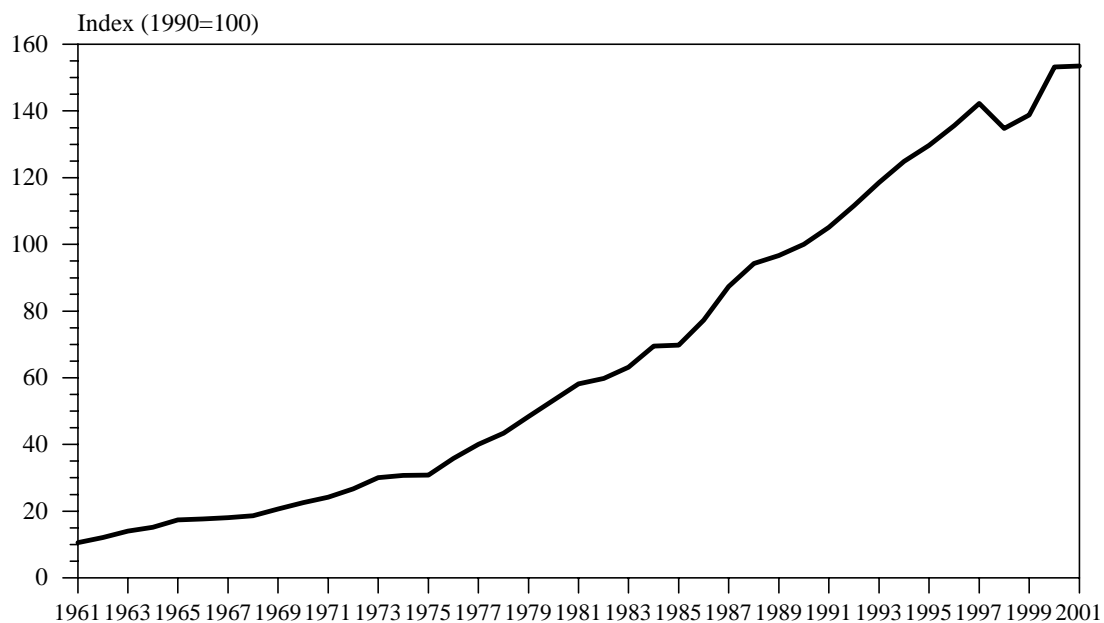
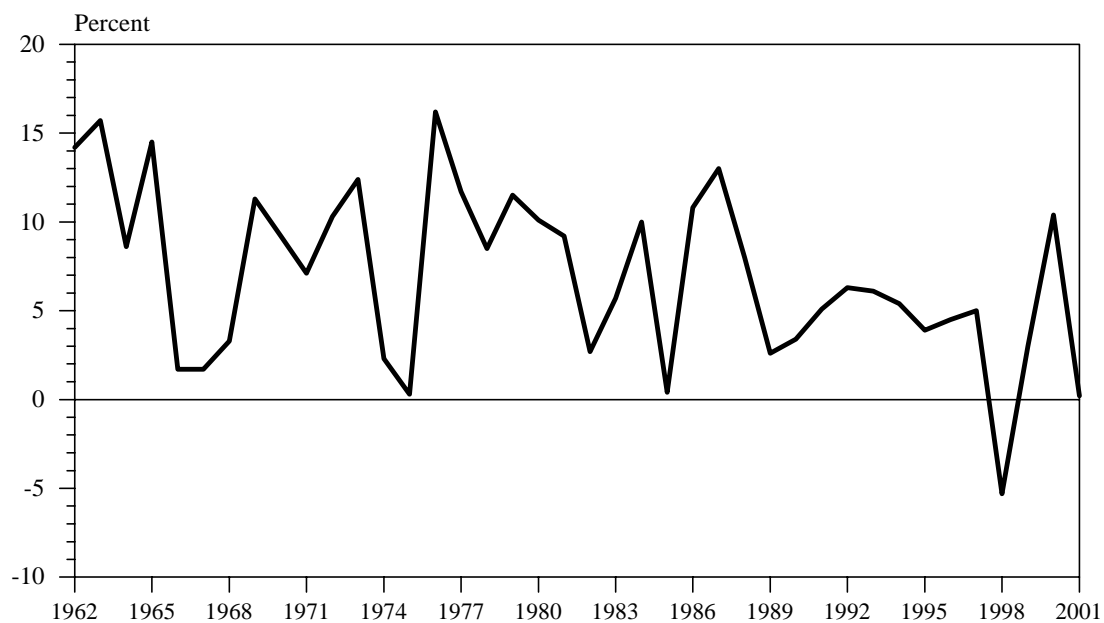
- (a) The Census and Statistics Department has been compiling the expenditure-based GDP as from the reference year of 1961. Over the past 40 years, the Hong Kong economy had gone through a number of ups and downs, with the growth rate of the economy as measured by the constant price GDP also showing much variation between periods, as broadly described below.

In the 1960s and 1970s, the Hong Kong economy expanded at a robust pace averaging at around 9% per annum. For these two periods, the troughs occurred in 1966-67 and 1974-75 respectively. The former trough was caused by the social instability in the mid-1960s, while the latter trough was due to the global economic recession after the oil crisis.

As the economy became increasingly mature, Hong Kong's economic growth proceeded at a slower rate of around 6.5% per annum in the 1980s. During this period, there were brief relapses in 1982 and 1985, both affected by a setback in the external economic environment at that time, as well as in 1989.

The Hong Kong economy still maintained a steady and notable growth in the early to mid-1990s, averaging at around 5% per annum between 1991 and 1997. Then, with the outbreak of the Asian financial crisis in the latter part of 1997, the Hong Kong economy suffered a severe setback, and for the first time it recorded negative growth on an annual basis in 1998. The economy soon rebounded, and attained double-digit growth in 2000. But upon the global economic downturn last year, the Hong Kong economy slowed down abruptly during the course of the year, and had only a slight growth for 2001 as a whole. Affected by these two significant setbacks, the Hong Kong economy yielded growth averaging at only around 2% per annum between 1998 and 2001.

From this, it is clear that owing to the relatively small scale of the Hong Kong economy and its high degree of external orientation, the vicissitudes of the economy are bound to be influenced largely by fluctuations in the global economy.

**Level of Hong Kong's Gross Domestic Product in real terms****Growth of Hong Kong's Gross Domestic Product in real terms**

- (b) The Government's budgetary figures are generally presented on the basis of fiscal account and for that account public expenditure is 22% of GDP. However, the way this question is asked requires it to be presented as the share of public expenditure reckoned on a GDP basis instead of on a fiscal basis.

The Hong Kong economy is predominantly led by the private sector. Public sector expenditure, reckoned on a GDP basis, accounted for around 12% of GDP in 2001<sup>(Note)</sup>. Of this, the share of government consumption expenditure in GDP was 8%, and the combined share of public sector expenditures on building and construction and on machinery and equipment in GDP was 4%.

With consumers' propensity to save and the leakage to imports both rendering a diluting or offsetting effect, an increase in public sector expenditure on the whole would only render a limited short-term boost to GDP. If the Government seeks to raise public sector expenditure year after year for the sake of stimulating the economy, this would inevitably impose an increasingly heavy burden on public finances. Besides, undue expansion of the public sector would also take up an excessive amount of resources in the economy, thereby hampering resource usage efficiency and overall economic vitality.

Note: Generally speaking, public sector expenditure reckoned on a GDP basis covers the expenditures incurred by government departments themselves, as well as by some quasi-government non-profit bodies. On the other hand, it does not include the expenditures of those government departments and statutory entities engaged in the production of goods and services principally for sale to the public, such as the Housing Department, Post Office and Water Supplies Department. Furthermore, expenditures incurred by the Government in the provision of social welfare and public assistance are also not included, because such expenditures are in the nature of transfer payments and not direct consumption of economic resources.



(c) Crude estimates from the econometric model are as follows:

<i>Broad category of public sector expenditure</i>	<i>Multiplier effect of increasing the respective public sector expenditure by \$1on Hong Kong's GDP (\$)</i>	<i>Effect of increasing the respective public sector expenditure by one percentage point on the growth rate of Hong Kong's GDP (% point)</i>
Government consumption expenditure	0.7	0.057
Public sector expenditure on building and construction	0.5	0.015
Public sector expenditure on machinery and equipment	0.15	0.001

### Statistics on Direct Investment Outside Hong Kong

8. **MR JAMES TO** (in Chinese): *Madam President, will the Government inform this Council of the respective amounts of Hong Kong's direct investment and the number of investment items outside Hong Kong in each quarter of the past five years, broken down by the economy entity where the investment was made and details of the trade categories involved?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): Madam President, the Census and Statistics Department (C&SD) started to compile statistics on outward direct investment (ODI), including the ODI position at the end of each year and the ODI flow during the year, as from the reference year of 1998. Quarterly statistics on ODI flows are also compiled, as from 1999.

Breakdown of annual statistics on ODI analysed by major recipient country/territory are currently available. However, breakdown by economic

activity of the enterprises receiving Hong Kong's ODI are only available in respect of the recipient enterprises in the Mainland of China. At present the C&SD does not compile statistics on the number of investment projects.

Statistics on the position and flow of ODI analysed by major recipient country/territory are given in Table 1. Statistics on the position and flow of ODI analysed by economic activity of the enterprises in the Mainland of China receiving Hong Kong's investment are given in Table 2.

Table 1

Position and Flow of Outward Direct Investment by Major Recipient  
Country/Territory, 1998-2000

<i>Major recipient country/territory</i>	<i>Outward direct investment at market value (HK\$ billion)</i>					
	<i>Position at end of year</i>			<i>Outflow in year</i>		
	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>
Total	1,734.4	2,499.9	3,027.9	131.5	150.0	462.5
British Virgin Islands	720.2	1,395.6	1,569.4	57.4	33.1	70.5
The Mainland of China	547.7	620.6	1,011.6	54.1	78.6	361.2
Bermuda	92.1	93.2	88.9	2.3	6.0	12.6
Cayman Islands	97.9	86.1	71.1	8.4	1.4	-6.1
New Zealand	36.8	31.5	27.1	4.6	0.5	-1.0
Singapore	15.6	18.9	25.9	-8.4	4.0	3.5
United States	20.4	22.5	24.3	1.3	1.1	2.9
Panama	22.8	30.9	23.5	-4.0	0.4	2.5
United Kingdom	56.6	26.0	23.5	3.8	-23.3	4.6
Japan	7.9	17.4	18.3	-0.8	0.6	3.2
Others	116.4	157.2	144.4	12.8	47.7	8.6

Notes :

1. Individual figures may not add up exactly to the total due to rounding.
2. Country/territory here refers to the immediate destination economy. It does not necessarily reflect the country/territory in which the funds are ultimately used.

Table 2

Position and Flow of Outward Direct Investment by Major Economic Activity of  
the Direct Investment Enterprise Groups in the Mainland of China, 1998-2000

<i>Economic activity</i>	<i>Direct investment in the Mainland of China at market value (HK\$ billion)</i>					
	<i>Position at end of year</i>			<i>Outflow in year</i>		
	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>
Total	547.7	620.6	1,011.6	54.1	78.6	361.2
Communications	58.5	145.5	542.7	21.4	18.2	258.8
Manufacturing	180.3	186.8	198.2	15.3	32.0	37.2
Investment holding, real estate and various business services	152.6	176.0	150.7	11.2	17.4	26.1
Restaurants and hotels	15.2	22.9	27.4	1.3	6.7	10.2
Wholesale, retail and import/export trades	26.6	22.2	23.4	0.8	-3.8	6.8
Transport and related services	34.7	16.0	17.2	1.1	2.6	5.1
Construction	12.2	5.7	6.0	*	0.2	2.4
Other activities	67.5	45.5	45.9	3.0	5.3	14.5

## Notes:

1. Individual figures may not add up exactly to the total due to rounding.
2. A direct investment enterprise means an incorporated or unincorporated private or public enterprise where 10% or more of the ordinary shares or voting power or the equivalent are being directly owned by a company. Direct investment enterprise group (DIEG) includes all direct investment enterprises of the Hong Kong Enterprise Group in the Mainland of China.
3. Economic activity here refers to the major activity undertaken by the DIEG in the Mainland of China. As a DIEG may be engaged in a wide variety of activities in the Mainland of China, the economic activity is determined on the basis of the principal line of business of the group.
4. Negative outflow does not necessarily mean equity withdrawal. It may be the result of repayment of loans to non-resident affiliates.
5. \* Less than HK\$0.05 billion

## **Attracting Factory Operators to Retain Manufacturing Processes in Hong Kong**

9. **MR KENNETH TING** (in Chinese): *Madam President, it has been reported that, according to the results of a survey recently conducted by the Hong Kong Polytechnic University on the possibility of relocating industrial processes in Hong Kong, nearly 90% of the interviewed factory operators indicated their intention to retain some manufacturing processes in Hong Kong if concessions and treatments equivalent to those offered by the mainland authorities are provided in Hong Kong. Moreover, businessmen, industrialists and academics have suggested that the Administration should allocate more resources to upgrade the image of products bearing the "Made in Hong Kong" label in order to stimulate sales. In this connection, will the Government inform this Council whether it will:*

- (a) make reference to the findings of the survey and consider providing concessions and treatments on par with those in the Mainland to attract factory operators to relocate manufacturing processes (particularly those for high value-added products) back to Hong Kong or to retain them here; and*
- (b) allocate more resources to promotional activities to boost worldwide consumers' confidence in the quality of products manufactured in Hong Kong?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): Madam President, we understand that the Hong Kong Electrical Appliances Manufacturers Association has commissioned the Hong Kong Polytechnic Institute for Enterprise to conduct a survey earlier this year on the feasibility and likelihood of manufacturers moving their high value-added production back to Hong Kong. The Institute is scrutinizing the findings together with the industries. It will publish the findings and formally put their proposal to the Government at a later date. We shall certainly study their recommendations carefully when we receive them.

As regards the second part of the question, the Government has tasked the Hong Kong Trade Development Council (TDC) with enhancing the image and status of "Made in Hong Kong" goods in the world market. This is in fact one of the core responsibilities of the TDC. Throughout the years, it has made

significant contribution to building up Hong Kong brand names and a high reputation for Hong Kong products. Its efforts include organizing and encouraging Hong Kong manufacturers to take part in local and overseas promotional functions, and promoting the high quality and sophisticated design of Hong Kong products through market-specific publicity campaigns.

In Hong Kong, the TDC sets aside premium sections at its trade fairs to showcase Hong Kong's indigenous brands and original designs to buyers from the international markets. Elsewhere, it organizes special displays, product parades and seminars, and disseminates publicity materials at important fairs to promote the premium design of Hong Kong products. In recent years, the TDC has put special focus on the mainland markets. Key efforts include the holding of Hong Kong brand name promotions in leading department stores in major cities and collecting information on the specific demand and taste of individual mainland regions to help manufacturers' tailor make their products for the diversified market. The TDC will continue to monitor the changing demands of the market and the industry, and adjust its resources allocation to fit such changes. This will enable it to enhance its work in promoting Hong Kong products. To this end, the Government will continue to render its support.

### **Regulation of Laser Vision Correction Surgeries**

10. **MRS SOPHIE LEUNG** (in Chinese): *Madam President, it has been reported that 70% of the persons in Hong Kong aged between 19 and 39 suffer from myopia and 60% to 70% of these will consider undergoing laser vision correction surgeries in order to improve their eyesight. In this connection, will the Government inform this Council whether:*

- (a) it knows the number of persons who underwent laser vision correction surgeries in Hong Kong in each of the past three years and, among them, the number of cases in which the surgeries resulted in deterioration of eyesight;*
- (b) it knows if the relevant authorities have received complaints about such surgeries; if they have, of the subject matters and outcome of the complaints; and*
- (c) it plans to tighten the regulation of such surgeries so as to protect the interests of consumers?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese): Madam President, Laser-Assisted In Situ Keratomileusis (LASIK) or laser vision correction is a surgical procedure that can reduce a person's dependency on glasses or contact lenses by using an ultraviolet laser to remove corneal tissue to correct the shape of the cornea for better focusing. This laser vision correction surgery is available at five private hospitals and at an academic department in one teaching hospital in Hong Kong.

- (a) The required statistics are set out below:

<i>Year</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
No. of persons who underwent laser vision correction surgeries	2 456	3 250	4 650
No. of cases in which surgeries resulted in deterioration of eyesight <sup>(Note)</sup>	7	1	4

Note: The term "deterioration of eyesight" means that the visual acuity measured with correction by lenses or eyeglasses after surgery is lower than the lens-corrected visual acuity before the surgery.

- (b) The Department of Health has not received any complaints about laser vision correction surgeries. The Medical Council of Hong Kong (MCHK) received one complaint relating to laser vision correction surgery in 2001. The complainant was not satisfied that he was still required to wear glasses after the operation. After consideration of the facts, the complaint was dismissed by the Preliminary Investigation Committee Chairman, Deputy Chairman and the lay member as without grounds.
- (c) Laser vision correction surgeries are carried out by registered medical practitioners. Procedures carried out by medical practitioners are regulated by the MCHK. In accordance with the Professional Code and Conduct promulgated by the MCHK, a medical practitioner should inform the patient about the general nature, effect and risk of medical procedures and a consent to

treatment should be given by the patient. Medical practitioners who violate provisions of the Professional Code and Conduct may be subject to disciplinary action by the MCHK. The MCHK will regularly review the Professional Code and Conduct in the light of developments. For his own safety, it is important for a patient to understand the potential risks and discuss with the doctor which procedure is best for his situation before undergoing a surgery.

### **Choice of Traditional Chinese Characters for Forming Chinese terms**

11. **MR HENRY WU** (in Chinese): *Madam President, at present, the choice of traditional Chinese characters, which differ one from another by the presence or absence of a radical, for forming certain Chinese terms has not been standardized. Regarding the use of such terms in government documents and the laws, will the Government inform this Council:*

- (a) *of the government departments responsible for laying down the parameters for the choice of characters when using such terms in government documents and the laws, and for the selection of characters for particular terms; as well as the principles and procedure adopted by these departments for making the decisions concerned;*
- (b) *if more than one department is involved, whether there is a department or official responsible for the co-ordination work and for making the final decisions on the selection of characters; if there is, of that department or official and details of the relevant work, and whether a mechanism has been set up to examine the objections raised by members of the public to such final decisions; if there is no such department or officer for the co-ordination work, the reasons for that; and*
- (c) *of the justifications for choosing the less commonly used characters to form certain terms, instead of those which have been in use for a long time and are generally accepted, such as using "分" instead of "份" in the Chinese term for "Hong Kong Permanent Identity Card" in government documents?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President, on the three points raised in the question, I would like to respond as follows:

- (a) Chinese is a homophonic language with a large number of Chinese characters pronounced alike but different in form. Whether the regular or variant form of characters is to be used is not a matter of right and wrong. The major concern is consistency throughout the same document. As long as the character itself is correct, it does not matter whether the commonly used form or its variants are adopted. The Official Languages Agency (OLA) has compiled some reference materials, after consulting authoritative dictionaries published in the Mainland, Taiwan and Hong Kong, to facilitate the translation and vetting of government documents. Departmental officers can approach the OLA direct for advice when in doubt about the choice and use of characters.
- (b) The reference materials on forms of characters prepared by the OLA are not meant to form a set of standards for strict observation. To standardize Chinese characters, we must take into account the origin and development of Chinese characters and the practical need in the current usage. We must give the matter a thorough thought and view it from the academic and the educational perspectives as well. We adopt a more liberal attitude towards the choice of forms of characters. As long as the characters are right, both regular and variant forms can be adopted. The major principle is to achieve consistency throughout the whole document.
- (c) "身分" and "身份" are terms with the characters "分" and "份" pronounced alike but different in form. These two terms carry the same meaning. They are interchangeable and will not give rise to any difference in interpretation. In scrutinizing the authentication of the draft Chinese text of the Registration of Persons Ordinance (Cap. 177) and Immigration Ordinance (Cap. 115) in 1993, the former Bilingual Laws Advisory Committee concluded that the character "分" should be used instead of "份" in the term "身分證".

Consistency in the use of Chinese characters and terms should be maintained throughout the text in government documents and



legislation. As "分" is adopted as the standardized character in the ordinances, the same should be used when the term "身分" is mentioned in government documents so as to avoid inconsistency.

### **Estimated Population of Various Constituencies for the First District Councils Elections**

12. **DR TANG SIU-TONG** (in Chinese): *Madam President, will the Government inform this Council of the estimated population, as at 30 June next year, in each of the 390 constituencies demarcated by the Electoral Affairs Commission (EAC) in 1999 for the first District Councils (DC) elections?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): Madam President, the latest forecast shows that the territorial population will reach 6.88 million as at 30 June 2003. The breakdown by the 18 districts is at Annex.

Based on the projection of the territorial population, the Planning Department has produced population forecasts at street block levels<sup>1</sup> as at 30 June 2003. These forecasts will be used by the EAC to formulate delineation proposals on constituency boundaries for the second term DC elections.

In order to ensure that the EAC can continue to operate in an independent and impartial manner when formulating its delineation proposals, we consider that it would be more appropriate to follow the past practice of releasing the population forecasts when the EAC publishes its draft delineation proposals for public consultation in September 2002. Releasing the population forecasts prior to the EAC publishing its draft delineation proposals may lead to speculations on how constituency boundaries are to be delineated for the second term DC elections.

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<sup>1</sup> Street blocks are the basic geographical units adopted in the forecast exercise of the Planning Department. The whole land area of Hong Kong is divided into about 4 600 street blocks following grids of streets. Each of the existing 390 constituency areas is made up of a number of street blocks.

## Population Distribution by 18 Districts as of 30 June 2003

<i>District</i>	<i>Population forecasts as of 30 June 2003</i>
Central and Western	251 700
Eastern	600 300
Kowloon City	369 100
Kwun Tong	583 400
Sham Shui Po	347 600
Southern	284 600
Wan Chai	153 100
Wong Tai Sin	450 900
Yau Tsim Mong	260 200
Islands	113 500
Kwai Tsing	510 600
North	296 300
Sai Kung	376 500
Sha Tin	636 600
Tai Po	306 700
Tsuen Wan	266 700
Tuen Mun	527 200
Yuen Long	542 600
Total	6 877 600

**Consulting District Councils About Vetting of Planning Applications**

13. **MR FRED LI** (in Chinese): *Madam President, last year, the Hong Kong Society for Rehabilitation submitted to the Town Planning Board (TPB) a planning application in respect of a housing construction project in Kwun Tong for the elderly. Some members of the Kwun Tong District Council (KTDC) told me that the KTDC had not been consulted on the planning application, but instead, the Kwun Tong District Office sent a letter to the District Council (DC) members for the area at which the proposed project would be located and to those for nearby areas, asking them to put forward any views they might have within seven days from the date of the letter. The DC members concerned complained that they did not have sufficient time to consult the residents and*

*community organizations which might be affected by the project. Regarding the above incident and the consultation arrangements, will the Government inform this Council:*

- (a) of the reasons for not conducting public consultation on the planning application but instead, sending letters to individual DC members asking them to put forward their views within a short period;*
- (b) how the respective public consultation procedures adopted by the TPB for vetting planning applications and for revising statutory plans compare with each other;*
- (c) whether the Planning Department (PD) which provides service to the TPB may consult the DCs directly regarding the vetting of planning applications, and whether the PD will consider so consulting in the future in order to save time; if this will not be considered, of the reasons for that; and*
- (d) whether it will review the consultation arrangements with the aim of ensuring that those who may be affected by the projects will be fully consulted and have the opportunities to make submissions; if not, of the reasons for that?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese):  
Madam President,

- (a) There is no provision under the Town Planning Ordinance (the Ordinance) (Cap. 131) for the TPB to conduct public consultation on planning applications. However, the TPB considers that public consultation is an integral part of the planning process. To facilitate the TPB's consideration of planning applications, the TPB Secretariat has adopted an administrative arrangement to seek the views of relevant government departments, including the DC(s) concerned, and consolidate their comments for the TPB's reference. The DC(s) concerned would arrange the most appropriate means of collating views from the local residents on these planning applications. Since there is a statutory time limit of two months for the TPB to consider these planning applications, the administrative

consultation process must be completed within a very tight timeframe.

- (b) Under the Ordinance, the TPB is required to exhibit draft Outline Zoning Plans and amendments to draft Outline Zoning Plans for public inspection, and any affected persons could raise objections during the exhibition period. This is a statutory procedure that is clearly set out in law, and it is different from the administrative consultation arrangement we have adopted for planning applications.
- (c) The District Office, with its well established liaison networks in the local communities and intimate knowledge of local concerns, is the most appropriate agent of the Administration to collect views on planning applications. The PD will continue to work closely with the Home Affairs Department in the collection of local views.
- (d) The PD and the Home Affairs Department will continue to keep under review the current consultation arrangement. It is our intention to put forward amendments to the Ordinance by the end of this year to expand the scope for greater public consultation and greater transparency in respect of planning applications and rezoning requests.

### **Installation of Traffic Signs on Expressways and Trunk Roads**

14. **DR RAYMOND HO** (in Chinese): *Madam President, regarding the installation of traffic signs on expressways and trunk roads, will the Government inform this Council whether it will:*

- (a) *light up such traffic signs so that motorists can see them clearly at night; if so, of the details; if not, the reasons for that;*
- (b) *enlarge the size of speed limit signs; and*
- (c) *install directional traffic signs way ahead of the entry and exit of each expressway and trunk road, so that drivers may choose the lanes in advance?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President, in accordance with the Transport Planning and Design Manual (TPDM) issued by the Transport Department, all gantry signs, and all roadside Final Advance Direction Signs (FADS) and Advance Direction Signs (ADS) on major roads are required to be directly illuminated by associated lighting facilities. To ensure that the above-mentioned signs comply with the aforesaid requirements and that the level of illumination is adequate for motorists to read from a distance at night-time, the Electrical and Mechanical Services Department (EMSD) conducted a territory-wide survey in 2001. Based on the survey results, the EMSD is now making remedial works.

As for other regulatory and warning traffic signs, the current use of standard retro-reflective material without illumination is largely satisfactory and in line with the practice of most advanced countries. Moreover, the mounting height of such traffic signs will not be higher than 2.3 m from the ground, hence they could adequately be read from a distance through reflection by the vehicles' headlamps.

For speed limit signs, as motorists are well familiar with the metric system that has been used in Hong Kong for over 10 years, we have, since 2000, removed the lettering "km/h" to enable larger speed limit numerals to be shown on the sign face so that motorists may read the signs from a further distance.

In accordance with the TPDM, three directional signs including Directional Signs (DS), FADS and ADS should be provided at all junctions along trunk roads, expressways, primary distributor roads and main rural roads. The DS is provided at or close to the diverging point, the FADS at the start of the deceleration lane or 200 m to 300 m before the diverge, and the ADS 500 m before the start of the deceleration lane, or 500 m in advance of the FADS. While the existing practice provides good guidance to motorists, we will continue to review our standards with a view to making improvements. In this respect, we are currently undertaking a comprehensive review of directional signing on all roads in the territory, which is expected to be completed by September 2002.

We also plan to introduce new traffic signs with exit numbers to assist motorists in choosing correct exits on expressways to their destinations. A trial of the numbering system is being set up on Route 3 between Au Tau and Western Harbour Crossing for evaluation in 12 months. If the result is satisfactory, we will extend the system to all expressways in the territory.

**Appointment of District Council Members to Advisory and Statutory Bodies**

15. **MR IP KWOK-HIM** (in Chinese): *Madam President, the Home Affairs Bureau released the Report of the Working Group on District Councils Review in July 2001 and undertook that it "would take proactive measures with a view to appointing more District Council (DC) members to advisory and statutory bodies, especially those which are concerned with people's livelihood." I moved a motion on the Report for debate at the Council meeting on 31 October 2001 and the motion was carried. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of DC members who have been appointed to advisory and statutory bodies to date since 1 November last year, together with a breakdown of such numbers by new appointments and reappointments and by whether or not the seats concerned are newly added; and*
- (b) *of such figures for each of the past five years?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President,

- (a) According to our records, there were 33 new appointments and 80 reappointments of DC members to government advisory and statutory bodies since 1 November 2001. These DC members were appointed/reappointed to 47 advisory and statutory bodies. The statistics do not include district organizations, such as area committees and district fight crime committees. We do not have a breakdown on existing and the newly added seats or vacancies.
- (b) We do not keep statistics for past years in our computer system. However, our records show that since 1 January 2000 (when the term of the current DCs commenced), 211 DC members have served on government advisory and statutory bodies. These figures again exclude district bodies such as area committees and district fight crime committees.

**Shark's Fin Trade Pushing some Shark Species into Extinction**

16. **MISS EMILY LAU:** *Madam President, it has been reported that Hong Kong is the major market for the world's shark's fin trade, and 50% to 70% of the trade is estimated to take place here. There are accusations that the trade is pushing some shark species into extinction. In this connection, will the executive authorities inform this Council whether:*

- (a) they are aware of the severity of the problem; and*
- (b) they have plans to tackle it; if so, of the details of such plans?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:**

Madam President,

- (a) According to information available to us, there is no comprehensive scientific data to ascertain the impact of shark's fin trade-related hunting activities on the number of sharks of different species or their life process. We will continue to monitor the situation closely.
- (b) To protect endangered species of wild animals and plants, the Government of the Hong Kong Special Administrative Region strictly abides by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Convention) through enacting and enforcing the Animals and Plants (Protection of Endangered Species) Ordinance (the Ordinance). The Convention was drawn up by the international community to protect wildlife against over-exploitation because of trade. It provides that import and export of species listed in its appendices shall be controlled by licences. The details of the appendices are as follows:

*Appendix I*

Species that are highly endangered and threatened with extinction — international trade in these species is allowed only in certain specified circumstances with valid export (or re-export) and import licences.

*Appendix II*

Species that could be threatened with extinction unless their trading is controlled — trade in these species requires a valid export (or re-export) licence.

*Appendix III*

Species identified by any party to the Convention as requiring protection from over-exploitation caused by international trade — export of these species from the signing party concerned requires valid export (or re-export) licence.

Among various shark species, only the trade in basking sharks and great white sharks is regulated under the Convention. These two species are listed in Appendix III to the Convention.

According to the Ordinance, the import, export or possession of endangered species of animals and plants and their related products requires a licence that must be obtained in advance from the Agriculture, Fisheries and Conservation Department. Basking sharks have already been included in the existing control regime. We will later amend the Ordinance to include great white sharks as well. If the control of trade under the Convention is extended to cover other shark species in future, we will revise the Ordinance accordingly.

**Security Arrangements in Campuses of Tertiary Institutions**

17. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding security arrangements in the campuses of various tertiary institutions, will the Government inform this Council:*

- (a) *of the numbers of crimes, broken down by the type of crimes and by institution, reported to the police which were committed within the campuses of various institutions in each of the past three years and, among them, the respective numbers of detected cases and the numbers of cases in which the proven offenders were students of the institutions concerned;*



- (b) *whether it knows the number of theft cases reported to the authorities of the institutions concerned which took place inside the libraries on campus in the past three years, and the number of such cases in which the suspects were caught; and*
- (c) *whether it has, in collaboration with the institutions concerned, reviewed the existing campus security measures?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President,

- (a) According to the records of University Grants Committee (UGC)-funded institutions, the numbers of crimes (broken down by categories) committed within their campuses and reported to the police by the institutions in the past three years, together with the numbers of cases in which the alleged persons were students of the concerned institutions, are set out at Annex 1. The police and institutions do not keep separate records on the outcome of the investigation and any trial of these cases.
- (b) In the past three years, the numbers of cases that may involve theft in libraries on campus (including lost property), as reported to the institutions and referred to the police, and the number of such cases in which the suspects were caught are set out at Annex 2.
- (c) Campus security is within the internal management of UGC-funded institutions. According to the information provided by the institutions, all of them have recruited security guards or hired security companies to look after campus security. The management of the institutions will keep campus security measures under regular review and liaise with the police closely to maintain a safe campus environment.

## Number of crimes in UGC-funded institutions in 1999-2001

<i>Institutions</i>	<i>Theft</i>			<i>Peeping/Indecent Assault</i>			<i>Injury/Criminal Damage/ Robbery</i>			<i>Other crimes</i> <sup>2</sup>		
	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
City University of Hong Kong	4 (1) <sup>1</sup>	2 (1)	4 (0)	-	2 (2)	1 (1)	1 (0)	-	-	-	-	-
Hong Kong Baptist University	-	-	-	-	-	-	-	-	-	-	-	-
Lingnan University	-	1 (1)	-	-	-	1 (1)	-	-	-	-	-	-
The Chinese University of Hong Kong	-	3 (1)	-	-	1 (0)	-	-	1 (1)	2 (0)	6 (0)	1 (0)	11 (0)
The Hong Kong Institute of Education	-	-	-	-	-	-	-	-	-	-	-	-
The Hong Kong Polytechnic University	1 (1)	1 (0)	1 (0)	-	-	-	-	1 (1)	-	-	-	-
The Hong Kong University of Science and Technology	-	3 (0)	-	-	-	-	-	1 (1)	-	-	-	-
The University of Hong Kong	-	1 (0)	1 (0)	-	-	-	-	-	-	-	-	-
Total:	5 (2)	11 (3)	6 (0)	-	3 (2)	2 (2)	1 (0)	3 (3)	2 (0)	6 (0)	1 (0)	11 (0)

Note 1: The numbers in brackets indicate the numbers of cases in which the alleged persons were students of the concerned institutions.

Note 2: Other crimes include illegal immigrants, loitering and family disputes, and so on.

## Annex 2

Number of cases possibly involving theft in libraries  
of UGC-funded institutions in 1999-2001

<i>Institutions</i>	<i>Cases reported to the police by institutions (including lost property)</i>			<i>Cases in which suspects were referred to the police for follow-up</i>		
	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
City University of Hong Kong	4	2	6	2	-	2
Hong Kong Baptist University	-	-	-	-	-	-
Lingnan University	-	-	-	-	-	-
The Chinese University of Hong Kong	2	4	-	-	1	-
The Hong Kong Institute of Education	-	-	-	-	-	-
The Hong Kong Polytechnic University	9	6	3	1	-	-
The Hong Kong University of Science and Technology	1	1	2	-	1	-
The University of Hong Kong	-	-	7	-	-	-
Total:	16	13	18	3	2	2

## **Applications for Assessment of and Exemption from Paying Regrant Premium**

18. **MR ALBERT CHAN** (in Chinese): *Madam President, regarding real estate developers' applications for assessment of premium and their being granted exemptions from paying land premium in respect of development projects, will the Government inform this Council:*

- (a) *of the number of applications, made between September 2001, when suspension of sale of Home Ownership Scheme flats was announced, and June this year, by real estate developers for assessment of regrant premium in respect of development projects, and the details of each application, including the area and location of the site, as well as the assessed land premium;*
- (b) *how the number and details of these applications compare to those of the applications made in the same period in each of the five preceding fiscal years;*
- (c) *of the total area of green features which have been allowed, since the issuance of the Joint Practice Notes on Green and Innovative Buildings in February 2001, to be excluded from the calculation of Gross Floor Area (GFA) under the Buildings Ordinance (Cap. 123), hence exempted from paying the land premium; and, in respect of each application allowed, the name of the development project, developer, type(s) of green features, area exempted, as well as the estimated land premium of the exempted area; and*
- (d) *as it is learnt that, in calculating flat prices, some developers boost their profits from the sale of domestic flats by inflating the flats' GFA which includes the area of some green features which have been exempted from land premium, whether the authorities have assessed the appropriateness of such practice; if the assessment finds the practice to be appropriate, of the reasons; if no assessments have been made, the reasons for that?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese):

Madam President,

- (a) During the period from September 2001 to June 2002, there were 109 applications for premium assessment processed in respect of lease modification, land exchange or lot extension for residential developments. Details of these applications are at Annex A.
- (b) A comparison of the number of applications between the said period and that of the same period in the preceding five years is at Annex B.
- (c) The aim of exempting green features from GFA calculations is to provide incentive to developers to construct buildings with better living environment for occupants. Since the issue of the Joint Practice Note on Green and Innovative Buildings in February 2001, the Buildings Department has approved 97 development projects with green features. The total GFA thus exempted under the Buildings Ordinance (Cap. 123) amounts to 114 261 sq m. Details of these projects are at Annex C. Other than their locations, the Administration does not require the names of the development projects to be submitted under the Buildings Ordinance.

Under the current land administration policy, where lease modification confers an increase in land value, premium is payable regardless of the GFA exemption under the Buildings Ordinance. There is no land premium exemption for green features, and the provisions of the Joint Practice Notes relating to green and innovative buildings have not departed from this aspect of our land administration policy. However, if there is no increase in land value arising from the green features, premium is not payable. In respect of certain green and innovative building features, such as common corridors or mail delivery rooms, no increase in land value can be identified and hence premium is not required for these features.

- (d) We are aware that some developers have included certain green features in the areas of flats offered for sale. Joint Practice Note No. 2 relating to green and innovative buildings provides that such

inclusion must clearly set out in the sales brochure, the use of the features and the GFA exempted. A copy of the sales brochure is required to be deposited with the Buildings Department. Property purchasers should be aware of the green features included in the property concerned, and they can make an informed choice when deciding on their purchase.

## Annex A

List of Applications for Premium Assessment in respect of Modification/Exchange/Extension  
for Residential Use processed between September 2001 and June 2002  
(Position as at 27 June 2002)

<i>Lot No.</i>	<i>Location</i>	<i>Type</i>	<i>Site Area</i> (sq m)	<i>Premium</i> (\$)
DD 1 LOT 3088	Shek Lau Po, Tung Chung	EXC	105	396,700
DD 120 LOT 3689 A&C	65 and 67 Castle Peak Road, Yuen Long	MOD	165	3,930,000
RBL 810	No. 1 Barker Road	MOD	1 351	37,330,000
DD 390 LOT 269	Castle Peak Road, Sham Tseng	EXC	52 591	110,000,000
IL 8972	Haw Par Mansion and Tiger Balm Garden, Tai Hang Road	EXC	7 230	943,000,000
NKIL 4146	39 La Salle Road	MOD	941	3,620,000
IL 8897	LDC(H1) Queen Street	EXC	7 964	82,690,000
RBL 506 and EXT.	No. 71 Mount Kellett Road	MOD	2 848	3,050,000
IL 29 KK	111 Leighton Road, Causeway Bay	MOD	530	0
IL 29 GG RP	1 Hysan Avenue, Causeway Bay	MOD	887	0
TWTL 382	Castle Peak Road, Tsuen Wan, New Territories	MOD	13 200	0
IL 2605 A RP	11 Ngan Mok Street, North Point	MOD	663	0
TYTL 160	Cheung On Estate, Tam Kon Shan Road, Tsing Yi	MOD	98 427	0
RBL 742	82 Peak Road	MOD	4 143	2,100,000
IL 7100	53 Blue Pool Road	MOD	793	0
NKIL 6277	Beacon Hill Road	MOD	41 578	1,100,000
YLTL 500	Tai Tong Road, Yuen Long	MOD	35 334	0
IL 4369	14-20 Leighton Road	MOD	437	0
IL 126 G RP	51 Elgin Street, Hong Kong	MOD	240	0
KIL 11076	Hung Hom Bay Reclamation Area, Kowloon	MOD	27 818	300,000
IL 71 C&BRP	286 Queen's Road Central	MOD	200	0
TMTL 384	Area 4C Tuen Mun	MOD	90 200	0
NKIL 6361	9 College Road	EXC	2 314	144,150,000
DD 238 LOT 653	Wing Lung Road	EXC	2 570	14,570,000
APIL 128	Ap Lei Chau Drive	MOD	9 301	0

<i>Lot No.</i>	<i>Location</i>	<i>Type</i>	<i>Site Area</i> (sq m)	<i>Premium</i> (\$)
TWTL 357	Yau Kom Tau, Tsuen Wan	MOD	5 530	300,000
FSSTL 195	Area 19, Fanling	MOD	12 212	545,000
1847 in D.D. Cheung Chau	Sai Wan, Cheung Chau	MOD	2 130	0
KIL 9518	No. 4 King Tak Street	MOD	993	1,000
STTL 161	Hilton Centre, Sha Tin	MOD	50	300,000
IL 2441	192 Victoria Road, Pok Fu Lam	MOD	3 164	600,000
1859 in D.D. Cheung Chau	Chung Hing Back Street, Cheung Chau	EXC	65	1,700,000
IL 7894	6-12 Mount Butler Road	MOD	3 530	1,000
IL 7863 RP	1 Moorsom Drive	MOD	338	300,000
IL 3546	Healthy Garden, 512-612 King's Road, North Point	MOD	5 914	0
IL 970	31E, 31F, 33-39 Wyndham Street	MOD	687	6,990,000
DD 51 LOT 4960	Pak Fuk Tsuen, Fanling	MOD	145	760,000
RBL 571	72 Deep Water Bay Road, Hong Kong	MOD	1 114	45,000,000
FSSTL 204	TPS Phase 2 - Wah Ming Estate	MOD	78 123	0
TMTL 415	Fu Tei	MOD	3 904	1,430,000
RBL 1132	129 Repulse Bay Road	MOD	10 570	300,000
HHIL 432	55-59 Station Lane	MOD	335	1,000
IL 1460 G 2	5 Blue Pool Road, Happy Valley	MOD	746	0
STTL 418	Ma On Shan Town Centre	MOD	6 050	2,960,000
IL 8393	3 Tregunter Path	MOD	7 320	2,000,600
YLTL 367	44-46 Castle Peak Road, Yuen Long	EXT	2	220,000
NKIL 6320	Lai Chi Kok Road, Cheung Sha Wan, Kowloon	MOD	19 473	0
YLTL 85	48 Castle Peak Road, Yuen Long	MOD	130	0
YLTL 367	44-46 Castle Peak Road, Yuen Long	MOD	156	0
IL 187	26 Peel Street, Hong Kong, IL 187 sBss1, sBRP, sEss1, sERP, sH & RP and IL 7397	MOD	330	0
RBL 1142	Adjoining 14 South Bay Road	MOD	2 267	231,600
TWTL 369	Tai Uk Wai, Tsuen Wan (2nd MOD)	MOD	4 273	900,000
IL 62 SG RP SD SS1	69 Hollywood Road	MOD	145	0
IL 2363	1 Chatham Path, Hong Kong	MOD	816	0
RBL 1148	8, 12 and 16 Severn Road	MOD	13 570	812,000
IL 1149A 1RP ARP	Moreton Terrace, Causeway Bay	MOD	2 227	0
IL 8354	12 Cloud View Road, Hong Kong	MOD	666	1,000
TMTL 276	32 Tsing Sin Street, Tuen Mun	MOD	900	0
NKIL 6328	Cheung Sha Wan Shipyards	MOD	18 912	182,750,000
TPTL 160	Tai Po Kau, Tai Po	EXC	4 070	8,000,000
IL 8971	Kennedy Town New Praya, Kennedy Town, Hong Kong	EXC	6 075	1,000
KTIL 600 RP	Wo Lok Estate, Kwun Tong	EXT	1 743	1,000
DD 3 LOT 2208	Yung Shue Long Old Village, Lamma Island	EXC	59	170,000

<i>Lot No.</i>	<i>Location</i>	<i>Type</i>	<i>Site Area</i> (sq m)	<i>Premium</i> (\$)
NKIL 27 D	248 Lai Chi Kok Road, Shum Shui Po	MOD	0	0
DD 3 LOT 3070	3070 in DD 316 Pui O	MOD	48	453
YLTL 503 RP & EXT	Kal Tei (Phase 2)	MOD	21 933	246,500,000
ILS 3342, 3346, 2829	121-131 Thomson Road and 2-10 Fleming Road	EXC	1 033	14,000,000
IL 2823 RP	Lockhart Road, Wan Chai	MOD	446	0
DD 175 LOT 67	Kau To	EXC	390	9,320,000
KIL 11118	J/O Princess Margaret Road and Wylie Road	MOD	36 006	0
STTL 521	Hung Kiu Lane, Kau To, Sha Tin	EXC	3 172	4,670,000
STTL 448	Area 77 Ma On Shan	MOD	14 505	350,000,000
DD 130 LOT 2860	Lam Tei	EXC	36 830	165,000,000
TWTL 373	90-114 Yeung Uk Road and 1-9 Ful Yiu Kok Street	MOD	10 416	488,320,000
NKIL 5195 RP	15-37 Broadcast Drive	MOD	29 703	1,000
IL 126 RP	55 Elgin Street	MOD	114	0
IL 8962	12 and 12A North Street	EXC	427	26,500,000
IL 118 D RP	26-30 Elgin Street, Hong Kong, IL 118sDRP, 118aARP and sBRP, Commercial Unit 1a	MOD	300	0
RBL 371 RP	34 Lugard Road	MOD	2 022	0
TMTL 399	Fu Tei	EXC	11 500	123,250,000
KIL 11100	Waterloo Road/Yunnan Lane	EXC	3 869	184,630,000
KIL 11151	Tai Kok Tsui (MTRC Site D)	EXC	17 192	815,050,000
IL 7385	25 Cooper Road	MOD	1 695	300,000
RBL 652	No. 33 Tung Tau Wan Road	MOD	623	0
KCTL 484	Kwai Shing Circuit, Kwai Chung	MOD	9 100	0
RBL 1150	RBL 1150, Nos. 60-62 Chung Hom Kok Road, Stanley, Hong Kong	MOD	1 144	0
TWTL 352	Yau Kam Tau, Tsuen Wan	MOD	3 716	43,370,000
RBL 1169	3-5 Gough Hill Path	EXC	4 582	18,000,000
DD 122 LOT 1739	Castle Peak Road - Ping Shan Yuen Long	EXC	13 396	19,263,500
DD 122 LOT 1740	Tong Yan San Tsuen, Yuen Long	MOD	7 319	500,000
KTIL 625 & 626	G/F and Cockioft, 22-24 Fu Yan Street, Kwun Tong	MOD	511	3,930,000
RBL 428	110 Repulse Bay Road	MOD	1 626	8,000,000
RBL 384 & EXT	26 Middle Gap Road	MOD	1 536	870,000
IL 4223 & EXT	70 Tai Hang Road, Traftaigar Court	MOD	3 176	0
KIL 3389 RP	15 Ho Man Tin Hill Road	MOD	2 422	66,110,000
DD 92 LOT 2574	Castle Peak Road - Kwu Tung Section, Sheung Shui, New Territories	MOD	6 216	600,000
DD 83 LOT 2427	Kwan Tei North, Fanling	MOD	15 521	1,090,000
DD 120 LOT 3777	50-54 Castle Peak Road	MOD	260	0



<i>Lot No.</i>	<i>Location</i>	<i>Type</i>	<i>Site Area (sq m)</i>	<i>Premium (\$)</i>
IL 730, 5457, 5458, 5459, 546	Sharp Street/Yui Wa Street, Causeway Bay	MOD	969	0
IL 4469	5 Tun Wo Lane, Hong Kong* including IL 4469 and IL 4470	MOD	70	0
DD 332 LOT 747	Cheung Sha, Lantau Island	EXC	4 900	2,550,000
IL 1366 F 2 C RP	No. 28 Mercury Street, Hong Kong	MOD	476	0
QBML 4 C 1 RP	913-919 and 929-935 King's Road, Hong Kong	MOD	1 556	0
FSSTL 144	Fanling Wai, Fanling	MOD	3 383	2,200,000
KIL 7929	99-105 Maidstone Road	MOD	485	1,000
TPTL 161	Sam Mun Tsai Road, Tai Po	MOD	91 265	10,000,000
FSSTL 195	Area 19, Fanling	MOD	12 212	0
IL 431 A 1 A	Stone Nullah Lane, Wan Chai	MOD	140	0
STIL 49	No. 90 Stanley Main Street	MOD	251	5,000,000
Total No. of Cases:	109	Total:	999 024	4,211,537,853

*Legend:*

EXC: exchange

EXT: extension

MOD: modification

## Annex B

Comparison of Modification, Exchange and Extension Processed in  
Specified Period between 1996 and 2002

<i>Period</i>	<i>No. of Applications Processed</i>	<i>Total Site Area (Hectares)</i>	<i>Total Premium (\$ Million)</i>
1 September 1996 to 30 June 1997	238	240.5	28,702.2
1 September 1997 to 30 June 1998	112	102.3	846.5
1 September 1998 to 30 June 1999	130	99.1	2,218.8
1 September 1999 to 30 June 2000	112	855.0	7,674.2
1 September 2000 to 30 June 2001	86	87.6	2,043.6
1 September 2001 to 30 June 2002	109	99.9	4,211.5

## Details of Approved Development Projects with Green Features

Item	Location	Developer	Approved Green Features *												Total (sq m)
			1	2	3	4	5	6	7	8	9	10	11	12	
1	1 Ngan Mok Street	Creative Mart Limited and Well Chart Investment Limited	*												108
2	933 King's Road	Easy Ring Limited, Fordtrade Development Limited and Smart Fortune Development Limited	*												266
3	18 Wharf Road	Chuang's Corporate Services Limited	*												184
4	1 Greig Road - Community Centre, 3 Greig Road - Residential Block	Swire Properties Limited and Braemer West Limited		*	*		*								3 035
5	11-19 Ship Street, Wan Chai	Hygetta Limited	*	*											143
6	128 Chun Yeung Street	Pacific Joy Investment Limited and Sunbo Holding Limited	*												90
7	79 Sing Woo Road	Genetop Development Limited	*	*											26
8	43-45 Tin Hau Temple Road	Spring Victory Limited and Kingcity Investment Limited	*												135
9	244-254 Shau Kei Wan Road	Gain First Enterprises Limited and Bothluck Development Limited	*								*				349
10	Sai Wan Ho Ferry Concourse, Sai Wan Ho	Yieldway International Limited	*							*	*				10 141
11	11 MacDonnell Road	Minton Development Limited	*												113
12	29, 31, 33 and 35 Centre Street	Million Wealth Development Limited, Rich Ocean Development Limited and Glory Honour Development Limited	*												90
13	198 Wing Lok Street and 38 Connaught Road West	Master Super Development Limited		*											122
14	2 Bowen Road	Well Venture Development Limited	*												125
15	1 Plantation Road	HKRT Peak Properties Limited	*												118
16	117 Repulse Bay Road	Weststar Enterprises Limited	*					*							315

Annex C

Item	Location	Developer	Approved Green Features *												Total (sq m)
			1	2	3	4	5	6	7	8	9	10	11	12	
17	3-5 Gough Hill Path	HKRT Peak Properties Limited	*												35
18	22-24 Gough Hill Path	Gate Land Limited	*												15
19	63G Bonham Road	Fairfax Limited	*												7
20	80-90 Des Voeux Road West	Million Rise Investments Limited	*												312
21	Nos. 2A and 12 North Street	Wealrise Investments Limited		*											15
22	66-72 Mount Davis Road	Ramset Development Limited	*	*											86
23	3-7 Mosque Junction	Rho Beta 6 L Limited	*	*											61
24	38 Conduit Road	Super Homes Limited	*	*											173
25	Telegraph Bay, Pok Fu Lam (Stage 8)-Phase R1, I.L.8969	Cyber-port Limited	*												3 898
26	2-7 Kui In Fong	E-Full Limited	*												128
27	Wah Fu Road, I.L.8840	Better Wealth Development Limited	*	*											308
28	2 Ching Wah Street	Right Chance Investments Limited	*	*											126
29	3 South Bay Close	Bentley Investments Limited	*	*											82
30	28 Borrett Road	Coral Mate Limited	*	*	*			*							237
31	15 Magazine Gap Road	Hugoton Limited	*	*											137
32	Nos. 8, 12 and 16 Severn Road	Time Plus Limited	*	*	*			*							319
33	Ap Lei Chau Drive, Aberdeen, Hong Kong, A.P.I.L.128	Annadale Development Limited	*												704
34	71 Mount Kellett Road	City Super Development Limited	*												22
35	57 Shouson Hill Road	Everton Properties Limited	*												32
36	No. 2 Park Road	Gradex Limited, Trump Champion Limited and Dragon Crest Limited	*								*		*		404
37	42A, MacDonnell Road	Prima Enterprises Corporation	*								*				32
38	80-84 Stanley Main Street	Yiu Shun Investment Company Limited	*	*											19
39	1 Barker Road	Etrema Company Limited		*											62
40	26 Belcher's Street, Kennedy Town	Mauve Land Company Limited	*	*	*					*	*				946
41	96-116 Hollywood Road, 1-27 Bridges Street and 15 Shing Wong Street	Topline Development Limited	*		*					*	*				1 608

[illegible]

Item	Location	Developer	Approved Green Features *												Total (sq m)
			1	2	3	4	5	6	7	8	9	10	11	12	
65	16 Wylie Road, King's Park	Grace Sign Limited	*	*							*				3 347
66	Hoi Fai Road, West Kowloon Reclamation K.I.L.11152	AP Joy Limited	*	*											463
67	58A-58D Yen Chow Street	Chueyine Company Limited	*												90
68	418 Ma Tau Wai Road	Wellbeauty Investment Limited	*												76
69	5-7 Austin Road	Chung How Liang	*								*				49
70	Ma On Shan Area 77 S.T.T.L.481	Kingdom Investment Limited	*	*											2 027
71	Cheung Chau C.C.I.L.6	The Bishop of the Roman Catholic Church in Hong Kong, Caritas – Hong Kong						*							15
72	8 Waterloo Road	Land Development Corporation, Urban Renewal Authority	*												144
73	Tai Po Road, Sha Tin Heights, Sha Tin D.D.187 Lot 561	Frantastic Success Limited	*												4
74	Tseung Kwan O T.K.O.T.L.55	Arrowtown Assets Limited	*												761
75	Discovery Bay, Lantau Island, New Territories D.D.352 Lot 385	Hong Kong Resort Company Limited	*	*											317
76	J/O Cadogan Street, Catchick Street and Davis Street, Kennedy Town I.L.8971	New Word Investment Limited, Land Development Corporation	*	*							*	*			1 525
77	J/O Kennedy Town New Praya, Cadogan Street, Catchick Street and Davis Street, Hong Kong (URA-H12) (Site A) I.L.8971	New Word Investment Limited, Land Development Corporation and Urban Renewal Authority	*												1 478
78	Area 43. J/O Lok Ha Square and Lok Lin Path, Sha Tin S.T.T.L.209	La Canada Limited	*				*	*				*			128
79	Ma On Shan Area 77 S.T.T.L.483	Perfect Development Limited	*	*							*				2 970
80	Discovery Bay North, Area N1C, Lantau Island D.D.352 Lot 385	Hong Kong Resort Company Limited	*							*					2 591
81	On Chun Street, Ma On Shan S.T.T.L.461	Towerich Limited								*					547
82	Tsuen Wan, CDA, Area 3, New Territories T.W.T.L.382	Gavast Estates Limited		*											95
83	Sham Tseng, Tsuen Wan D.D.387 Lot 214	Prime Force Limited	*	*											875
84	J/O Ma Tong Road and Tai Shu Ha Road, Ma Tin, Yuen Long D.D.120 Lot 1920	Manx Properties Limited	*	*											163

Item	Location	Developer	Approved Green Features *												Total (sq m)
			1	2	3	4	5	6	7	8	9	10	11	12	
85	Tin Shui Wai Area 108b, Yuen Long T.S.W.T.L.27	Wisdom Choice Investment Limited	*												1 923
86	Lantau Airport Railway, Kowloon Station (Site B) LNT455/YAT/74 (Various Lots in D.D.109 and 110)	Winpower Holdings Limited	*												521
87	99 Tai Tong Road, Yuen Long	Waygent Investment Limited and Onfine Development Limited	*												924
88	33 Castle Peak Road, Sham Tseng, New Territories	Salisbury Company Limited	*	*											4 078
89	Area 40, Route Twisk, Tsuen Wan T.W.T.L.395	Golden Famous International Limited	*	*											2 766
90	Tsing Fat Street, Tuen Mun, New Territories T.M.T.L.424	Profit Nation Development Limited	*	*				*							535
91	Kowloon Station Development, Package Three K.I.L.11080	MTR Corporation Limited	*	*	*										4 201
92	MTRC Kowloon Station Development, Site D – Package 4 K.I.L.11080	MTR Corporation Limited	*	*											3 295
93	Tung Chung Station Development – Package III Phase 1 T.C.T.L.5	MTR Corporation Limited	*												1 724
94	Tung Chung Station Development – Package III T.C.T.L.5	MTR Corporation Limited	*							*	*	*			18 527
95	Tung Chung Station Development T.C.T.L.4	MTR Corporation Limited	*	*											1 052
96	Lantau Airport Railway, Kowloon Station (Site B) K.I.L.11080	MTR Corporation Limited	*	*											2 678
97	Park and Ride Development adjacent to Choi Hung Station, Clear Water Bay Road, Ngau Chi Wan N.K.I.L.6179	MTR Corporation Limited	*	*											654
Total No.			90	44	6	0	2	6	0	9	18	5	0	0	Total (sq m) 114 261

## Notes

1. Balconies 2. Wider common corridors/lift lobbies 3. Communal sky gardens  
 4. Communal podium gardens for non-residential buildings 5. Acoustic fins 6. Sunshades/reflector  
 7. Wing walls/wind catchers/funnels 8. Non-structural pre-fabricated external walls 9. Utility platforms  
 10. Mail delivery rooms with mail boxes 11. Noise barriers 12. Communal sky gardens for non-residential buildings

**Appearance of Street Name Plates**

19. **DR RAYMOND HO** (in Chinese): *Madam President, with respect to street name plates, will the Government inform this Council whether:*

- (a) *it has statistics on the percentage of road junctions installed with street name plates at present, and whether it has plans to install street name plates at each road junction to assist motorists and pedestrians (especially tourists) who are not familiar with the roads in finding their way;*
- (b) *it plans to provide Braille street name plates for the visually impaired; if so, of the details; if not, the measures to assist the visually impaired in finding out where they are;*
- (c) *it plans to show the street names in bigger characters and install a lighting system for street name plates so that they can be seen clearly by motorists and pedestrians at night; and*
- (d) *it plans to improve the appearance of the existing street name plates; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:**  
(in Chinese): Madam President,

- (a) At present, street name plates are provided at the two ends of each road. Though not a mandatory requirement, street name plates are installed at most of the road junctions, and where these junctions are more than 400 m apart, additional street name plates will be provided at an interval of approximately 200 m. There are no formal statistics on the percentage of road junctions equipped with street name plates among all road junctions. However, it is estimated that over 80% of the road junctions have been installed with street name plates. The Highways Department (HyD) regularly inspects the road network to identify locations where additional street name plates are needed and will carry out installation works accordingly. It is also reviewing the placement requirement of street name plates.

- (b) At present we have no plan to provide Braille street name plates for the visually impaired people. One of the pre-requisites for the use of Braille street name plates is that some form of guidance must be provided to lead the visually impaired to physically touch the Braille inscriptions. The provision of the necessary guidance, such as the implementation of an extensive network of tactile guide paths, will have far-reaching implications on the use of existing footpaths by the general public. Extensive consultation and detailed investigation are therefore needed as regards the feasibility of using Braille street name plates.
- (c) Since street name plates are sufficiently illuminated by normal street lighting to be clearly seen by motorists and pedestrians at night, we have no plan currently to enlarge the font size on street name plates or install a lighting system for them.
- (d) New designs of street name plates with enhanced aesthetic appearances are being developed under a consultancy study commissioned by the HyD for use in selected areas, such as tourist districts and commercial centres. Building numbers will also be inscribed on the new street name plates to assist road users in identifying addresses. The designs will be finalized by August 2002 and the new street name plates will be implemented in stages.

### **Problem of Bullying at School**

20. **DR DAVID CHU** (in Chinese): *Madam President, it has been reported that, according to the results of a survey recently conducted by The Chinese University of Hong Kong, over 30% of the primary school pupils surveyed indicated that they had been bullied at school by schoolmates in the preceding three months, and the forms of bullying included pushing, bumping, teasing and isolating; the situation is worse than that in the United Kingdom and the United States. In this connection, will the Government inform this Council:*

- (a) *whether the Education Department (ED) has conducted similar studies to look into the problem of bullying at school; if so, of the results of such studies, as well as the follow-up actions taken; if not, whether it will consider doing so; and*
- (b) *of the ED's measures to alleviate the problem of bullying at school?*



**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, each year, the ED conducts a survey among primary schools on students' behavioural problems and collects statistics on cases reported to have been handled by discipline teachers. In the 2000-01 school year, the number of "bullying" cases handled by them was 359. These included teasing, intimidating, threatening and damaging classmates' property, with victims accounting for 0.07% of the student population of primary schools.

The ED advocates the cultivation of a happy learning environment for students through school guidance and discipline. The aim is to develop in students healthy character and good behaviour, and to enhance their ability in self-understanding, mutual respect, problem-solving, change and conflict management, communication and socialization. Under the existing curriculum reform, the promotion of positive values and attitudes in students is accorded high priority. This will contribute to less "bullying" at school by helping students build up harmonious relationship with their peers and instilling in them the culture of respecting others and looking upon others as equals.

In handling "bullying" cases, the Student Guidance Officers/Teachers and the Student Discipline Masters/Teachers will intervene, mediate and counsel the students concerned, and follow up as appropriate.

To enhance the knowledge and skills of discipline and guidance teachers, the ED provides them with regular professional training. These include Diploma Courses for Student Discipline Masters/Teachers, as well as pre-service and in-service professional training for Student Guidance Officers/Teachers in primary schools, all of which aim to strengthen their knowledge, ability and skills in handling student behavioural problems.

In the 2000-01 school year, the ED organized a series of seminars and workshops on bullying in schools with a view to providing teachers with a deeper understanding of the issue and of the ways to deal with and prevent it. The areas discussed included phenomena and forms of bullying, the psychological state and behavioural patterns of the bullies and victims, and the tripartite involvement of the school management, teachers and students in combating and preventing bullying.

The ED also actively promotes parent education and home-school co-operation, which are also effective means in reducing bullying in schools.

**BILLS****Second Reading of Bills****Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): Bills. We will resume the Second Reading debate on the Land Registration (Amendment) Bill 2000.

**LAND REGISTRATION (AMENDMENT) BILL 2000****Resumption of debate on Second Reading which was moved on 14 February 2001**

**PRESIDENT** (in Cantonese): Mr Albert CHAN, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR ALBERT CHAN** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Land Registration (Amendment) Bill 2000, I would like to report on the deliberations by the Bills Committee.

The Land Registration (Amendment) Bill 2000 (the Bill) seeks to amend the Land Registration Ordinance (Cap. 128) and its subsidiary legislation to give effect to the Central Registration System, introduce a new service of colour imaging of plans, improve the performance of the registration and search functions of the Land Registry and regulate certain existing practices of the Land Registry.

The Bill proposes that plans attached to or endorsed on an instrument be imaged in colour, replacing the present practice of imaging in black and white followed by manual colouring. In the opinion of the Bills Committee, the Land Registry should make reference to the relevant deeds to confirm any missing colour codes before the plans are imaged in colour. In response to members' concern on the disposal of copies of plans after colour imaging, the Administration has undertaken that the Land Registry will not destroy or dispose of these plans but will send them to the Public Records Office for archival purposes.

The Bill provides for registration of certain types of copy documents which are certified in a manner satisfactory to the Land Registrar. Concern has been raised in the Bills Committee on the types of certified documents that are registrable and the manner of certification. According to the Administration, the Land Registry will only accept for registration a limited category of certified copy instruments which have to be certified to the satisfaction of the Land Registry either by solicitors or the issuing authorities. The Land Registry will also issue Land Registry Circular Memorandum from time to time to notify legal practitioners and other clients of the types of registrable certified copy instruments and the prescribed certification methods. In response to the concern of the Bills Committee, the Administration will add a Schedule to the Land Registration Regulations setting out the list of certified copy documents agreed between the Registrar General/Land Office and the Law Society of Hong Kong (Law Society) in 1991. Also included in the Committee stage amendments are the more common types of certified copy documents which have been accepted in the past.

On deeds withheld from registration due to some reasons, the Bill proposes to remove the entries of these stopped deeds and the instruments temporarily withdrawn by the lodging parties from the land register after one year from the date of delivery. One of the reasons for this proposal is the large number of stopped deeds which has caused inconvenience to the searchers. Concern has been raised in the Bills Committee that the proposed removal will have the effect of altering the priority of registrable instruments as provided for in the principal Ordinance. At present, the date of registration of a stopped deed will be the date of its first delivery for registration. The removal may affect the priority of the stopped deed to which the removed particulars relate and consequently a delay is caused in handling the deed.

Having consulted with the Law Society on the proposed amendment, the Administration has drafted Committee stage amendments to provide for the priority position between competing interests where the particulars of the stopped deed are reinstated on the land register. However, as there may be cases of exception to the general principles under certain limited circumstances, the Bills Committee requested the Administration to consult the Bar Association on the proposed amendments and on the propriety to amend the Land Registration Regulations rather than the principal Ordinance. The Bills Committee holds the view that it is not desirable to delay the resumption of the Second Reading debate on the Bill which seeks to bring improvements to the procedures of land

registration. To this end, the Administration has been requested to delete the proposed provisions relating to the removal of stopped deeds from the Bill.

The Law Society however raised opposition to not including in the Bill provisions on removing long outstanding stopped deeds from the land register. In this connection, the Bills Committee held discussions with the Administration and the latter was requested to, upon receipt of response from the Bar Association, discuss with the Law Society again on the possibility of further amending the Bill to add the provisions on stopped deeds back to the Bill for scrutiny by the Bills Committee, with a view to resuming the Second Reading debate before the end of this Session. The Administration informed me in writing on 18 June 2001 that feedback from the Bar Association indicated support for the introduction of a power to remove stopped deeds. But as the Administration needs time to consider the views expressed by the Bar Association and on how legislation can be drafted to achieve the intended effect, it is not possible for the Administration to add back the provisions on stopped deeds within this Session. Nevertheless, the Administration has undertaken to provide a draft of the proposed new legislation on power to remove stopped deeds for consideration by the Law Society in July 2002. Subject to the outcome of discussions with all the relevant parties, the Administration will table the new legislation for scrutiny by the Legislative Council in October 2002.

The Bills Committee notes that as registration of the stopped instruments has not yet been completed, such instruments are not public documents and the Land Registry does not have the statutory authority to provide copies of the instruments. As stopped deeds may affect property transactions, the Bills Committee is concerned that the non-availability of copies of stopped deeds may deny the aggrieved owners access to sufficient information to institute prompt legal actions. In the light of these concerns, the Administration is prepared to move a Committee stage amendment to empower the Land Registrar to keep and supply the latest copy of an instrument the registration of which has not been completed. It also agrees to issue a circular memorandum to all lodging parties that copies of the deeds which have been stopped from the commencement date of the relevant provisions are available for inspection.

The Bills Committee notes with concern the power of government departments to conduct name search of the land register as this will contravene the Personal Data (Privacy) Ordinance. According to the Administration, only authorized departments are allowed to conduct name searches of the land register.

They have to complete standard search forms to be signed by officers at directorate level and to provide the reasons for search. In the light of members' concern, the Land Registry has made an undertaking to enhance the current computer system to record the number of name searches conducted by each government department. Moreover, monthly statistics on the number of name searches will be generated for monitoring purpose to ensure no abuse.

Madam President, in view of the fact that the Administration has taken on board the suggestions made by the Bills Committee and will move Committee stage amendments to the effect, I hereby propose to resume the Second Reading debate on the Bill.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

**MR IP KWOK-HIM** (in Cantonese): Madam President, I would like to speak on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB) on the Land Registration (Amendment) Bill 2000. The Bill is submitted to this Council for scrutiny by the Bills Committee in order to give effect to the Central Registration System (CRS) in the Land Registry, introduce computerization of the procedures for land registration and to improve the services and efficiency of the Land Registry. Properties are one of the most important assets of the people of Hong Kong and many property transactions are carried out every day. The spirit of the Bill is to improve the efficiency of the existing land registration procedures. Since the amendments to the Bill do not entail much controversy, the DAB supports these amendments.

In order to tie in with the implementation of the CRS, the Bill proposes some amendments which include centralizing the registration work of the existing eight land registries. All documents for registration will be lodged at the Land Registry at the Queensway Government Offices. With the commencement of the Bill, the Land Registry will issue to all solicitor's firms in Hong Kong bar-coded memorial forms to tie in with and facilitate full utilization of the computer system. The Bill proposes that the colour-imaged plans attached to registered instruments will be inputted into the computer system and the computer files are accepted as part of the registrable documents. After the computer system comes into operation, searches can be made on the Internet and hence there will be greater convenience in searching information on land and

properties. With greater convenience, restrictions on conducting name searches in the Memorial Day Book and the land register will be imposed to protect the privacy of property owners. In future, only authorized government departments are allowed to conduct name searches of the land register and each name search will be recorded in the computer system. A monthly statistical report on the number of name searches will be generated for monitoring purpose. The DAB welcomes and supports the computerization programme by the Land Registry and the amendments to this effect.

The Bill also reflects the Government's attempt to solve the problem of long outstanding stopped deeds. The Bill proposes to empower the Land Registrar to remove entries of the stopped deeds from the land register after 12 months from the date of delivery. This will prevent unscrupulous solicitors from procrastinating property transactions and hence the interests of both parties to the transaction will be protected. This will also prevent any hindrance made to normal searches of the land register. After deliberations made by the Bills Committee, it was agreed that the period for removal of entries of stopped deeds would be shortened to six months. Some technical problems are, however, involved in respect of stopped deeds. These include problems related to their registration, and the priority between registered instruments after the particulars of the stopped deed are reinstated. The Law Society and the Bar Association have made some suggestions and discussions are ongoing with the Land Registry. The DAB is of the view that since legal practitioners are the main clients of the Land Registry, their views should be respected. The Land Registry is taking this into consideration. Pending the completion of the consultation exercise, the Land Registry will submit in October amendments acceptable to these professional bodies to this Council for deliberation. The DAB will also respect the views expressed by these two professional bodies of legal practitioners and support the relevant amendments.

With these remarks, Madam President, I support the Bill on behalf of the DAB. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

**MS MIRIAM LAU** (in Cantonese): Madam President, after one and a half years' of deliberation, the Land Registration (Amendment) Bill 2000 is finally tabled before this Council for Second Reading.

The Bill proposes a series of initiatives that seek to improve the efficiency of the existing land registration procedures. These include the implementation of the Central Registration System (CRS), the introduction of a new service of colour imaging of plans, improvements to the procedures in conducting searches of the land register, and measures to enhance the protection of personal privacy, and so on. The Liberal Party is very much in support of these amendments.

However, somehow most unfortunate, a lot of controversies arose during the final stages of the scrutiny of the Bill on the amendments to be made on stopped deeds. Stopped deeds refer to deeds withheld from registration due to mistakes or other problems. Figures in March 2001 show that of the 54 000 or so instruments delivered for registration, about 4.8% or 2 600 deeds were withheld from registration. Hence the title to about 2 600 properties was affected. In other words, there may be problems with about five deeds out of every 100 applications for land registration and thus registration has to be withheld or stopped.

Two problems arise out of this situation. Firstly, under the existing Land Registration Ordinance, there are no provisions for the removal of these stopped deeds and so they can be kept in the land register for a very long time and hence affecting property transactions and their disposal. Secondly, as the registration of these deeds has not been completed, they cannot be made available for public inspection. So to the person making a search in the land register, even if he or she is aware of the existence of such a stopped deed, he or she will not be able to know the reasons for the stop in registration and how great the implication will be. So the person making the search is put in a very disadvantageous position and much inconvenience is caused.

Having said that, the Liberal Party agrees that deeds already registered in the land register should be handled with great care as well. For once deeds are registered in the land register, they will be accorded a priority. In normal circumstances, the priority does not matter very much. But when it comes to land and properties, a priority position can result in the possession or deprivation of title. So if a priority position is lost, that may be tantamount to losing the title in its entirety. Thus the consequences are very grave indeed. The present proposal is to empower the Administration to remove the stopped deeds concerned from the land register after they have been kept for one year. If such deeds are removed, that will imply that the priority position is gone. Though the Liberal Party supports this proposal, great care must be taken on that. The

Bar Association advises that some of the provisions must be examined in detail. The Law Society is also very concerned about the amendments as they will affect the handling of deeds by solicitors in the course of their work. As a matter of fact, the Bar Association does not oppose to addressing this issue, it is of the view that more time should be spent on examining certain provisions. This will cause delay to the passage of the Bill, but it is something that the Liberal Party has to accept, albeit with reluctance.

The Government has undertaken that it will discuss the relevant provisions with the Law Society in July and will table in October the new legislation before the Council for deliberation. I very much hope that the Government will honour its undertaking so that we can make use of the very short time available to handle the issues of land registration and title registration which are of extreme importance but have not yet been handled. I also hope that improvements can be made to our land registration system soon. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, first of all, I should like to express my gratitude to members of the Bills Committee and in particular the Chairman, the Honourable Albert CHAN, for the painstaking and meticulous efforts they have made in scrutinizing the Land Registration (Amendment) Bill 2000 and the many invaluable views raised during the process.

The objective of the various amendment proposals made in the Bill is to improve the efficiency of the Land Registry and to provide greater convenience for clients. One of the major proposals is to provide for the establishment of a Central Registration System (CRS) by the Land Registry. Upon the implementation of the CRS, the two parties to a property transaction or their representatives will only have to submit the relevant documents to the central registration office for registration. Compared to the existing arrangement under which the documents for registration have to be lodged in accordance with the location of the properties concerned, the new system is more flexible and can cater for the needs of the vast majority of users.



To improve its services, the Land Registry has introduced a new service of colour imaging of plans to record in colour images the plans attached to an instrument, thereby enhancing substantially the quality of the copies of plans. In addition to providing for the colour imaging of plans, the Bill will also provide a sound legal basis for other relevant matters.

Besides, we will also take this opportunity to amend certain provisions in the Land Registration Ordinance and Land Registration Regulations, with a view to improving the land registration and search procedures.

We are very glad that the proposals made in the Bill have won the general support of both the Bills Committee and the industry. Nevertheless, as pointed out by Mr Albert CHAN earlier, we still have to negotiate with the industry on one of the proposals contained in the Bill, which involves the Land Registrar's power to remove the entries of stopped deeds from the land register. In principle, while the parties concerned do not have any objection to the proposal, we do agree that there is a need to minimize the inconvenience caused to searchers by the large number of stopped deeds. However, the Bills Committee is concerned that the proposal may affect the priority of registered instruments and has therefore suggested the Government consult the Bar Association on the relevant proposed amendment and consider further whether the relevant proposed amendment should be introduced under the principal ordinance or its subsidiary legislation.

Bearing in mind that the objective of the Bill is to improve the procedures of land registration and to provide the public with greater convenience and benefits, the Bills Committee and the Government have agreed to follow up the issue of stopped deeds outside the scope of the Bill, so as not to delay the resumption of Second Reading debate on the Bill. Since the work on the relevant information system required to implement the CRS may commence only after the Bill has come into effect, it is necessary for the Bill to be passed as soon as possible. We are thankful to the Bills Committee for the support it has given us in this respect.

We will move an amendment at the Committee stage to delete the provisions on stopped deeds from the Bill. However, for the convenience of members of the public, we propose to retain the provisions empowering the Land

Registrar to keep and supply the latest copy of an instrument the registration of which has not been completed to make available such documents for public inspection. As regards the deletion of provisions on stopped deeds, the Government will actively discuss the matter with the Bar Association and the Law Society of Hong Kong. We also undertake to report the discussion progress to the relevant Legislative Council Panels and solicit members' opinions as soon as possible, and then commence the necessary legislative amendment work.

I will also move at the Committee stage later on the passage of a number of amendments that have already been endorsed by the Bills Committee. In moving the amendments, I will give a brief account of their respective main points and rationale.

With these remarks, Madam President, I recommend the Second Reading of the Bill.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Land Registration (Amendment) Bill 2000 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Land Registration (Amendment) Bill 2000.

Council went into Committee.

**Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

**LAND REGISTRATION (AMENDMENT) BILL 2000**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Land Registration (Amendment) Bill 2000.

**CLERK** (in Cantonese): Clauses 3 and 4.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 1 and 2.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam Chairman, I move the amendments to clauses 1 and 2, as set out in the paper circularized to Members.

The amendment to clause 1(2) is consequential upon the restructuring of Policy Bureaux necessitated by the implementation of the accountability system

for principal officials by the Administration on 1 July this year. The title "Secretary for Planning and Lands" will be revised as "Secretary for Housing, Planning and Lands". The amendment to clause 2 is a drafting amendment.

*Proposed amendments*

**Clause 1 (see Annex IV)**

**Clause 2 (see Annex IV)**

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Housing, Planning and Lands be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 1 and 2 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): New clause 1A

Copies of documents etc.  
Admissible in evidence.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam Chairman, I move that new clause 1A, as set out on the paper circularized to Members, be read the Second time.

New clause 1A seeks to amend section 26A of the Land Registration Ordinance by adding new clause 26A(3) to it, stating clearly that the Land Registrar shall not be required to provide a certificate mentioned in section 26A in relation to any copy of or from any instrument withheld from registration. The new clause has been endorsed by the Bills Committee.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 1A be read the Second time.

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Member raised their hand)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): New clause 1A.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam Chairman, I move that new clause 1A be added to the Bill.

*Proposed addition*

**New clause 1A (see Annex IV)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 1A be added to the Bill.

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedule.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam Chairman, I move the amendments to the Schedule, as set out in the paper circularized to Members.

The amendments to sections 44A, 44B, 46, 91, 106 and 107 in the Schedule are consequential and technical amendments.

After the implementation of the Central Registration System, we have to make consequential amendments to many Ordinances and other subsidiary legislation, to delete references to the New Territories Land Registry and District Land Registry. Moreover, the amendments to sections 63(a), 64A and 89 in the Schedule are related to drafting. The amendment to section 63(aa) is related to the delivery of a certified copy of an instrument for registration. Since the Bills Committee was concerned that such documents might only be registered if the copy was certified and about the manner in which the copy was certified, we agreed to the addition of a schedule to the Land Registration Regulations, setting out a list of the certified copies of documents agreed upon by the Administration and the Law Society of Hong Kong. We have also included in the Committee stage amendments certain types of common certified copies of other instruments that had always been accepted in the past. The list is set out in Schedule 3 newly added to the amendment to section 73A.

An important amendment proposed is the amendment to section 67 in the Schedule. Mr Albert CHAN has earlier given the reasons why the relevant amendment should be made. We agreed to make the amendment to delete from the Bill the provisions related to the removal of stopped deeds from the Land Registry by the Land Registrar, including the exercise of the power, the procedures for deleting the entry, mechanism for appeal, and the priority of the removed instrument to which the removed particulars relate and which have been subsequently reinstated and registered on the land register. As I have just said, we would consult various parties and conduct a detailed study on the relevant clauses and make the necessary legislative amendments as set out in section 67 of the Schedule. It is also proposed to incorporate the amendments into the Land Registration Regulation and sections 15(2)(aa) and 72(aa). The Bills Committee has endorsed the amendments to the Schedule. Madam Chairman, I beg to move.

*Proposed amendment*

**Schedule (see Annex IV)**

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Housing, Planning and Lands be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedule as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.



**Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

**LAND REGISTRATION (AMENDMENT) BILL 2000**

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):  
Madam President, the

Land Registration (Amendment) Bill 2000

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Land Registration (Amendment) Bill 2000 be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Land Registration (Amendment) Bill 2000.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Fire Safety (Buildings) Bill.

**FIRE SAFETY (BUILDINGS) BILL****Resumption of debate on Second Reading which was moved on 7 February 2001**

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR IP KWOK-HIM** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Fire Safety (Buildings) Bill, I report on the deliberations of the Bills Committee.

The Fire Safety (Buildings) Bill seeks to empower the enforcement authorities, namely, the Director of Buildings and the Director of Fire Services, to require an owner/occupier of a composite building or a domestic building built before 1 March 1987 to improve the fire safety measures in the building, and to provide for related matters. The enforcement authorities may apply to a Magistrate court for a compliance order directing an owner or occupier to comply with the requirements in a direction, if the latter fails to do so without a reasonable excuse. If the relevant owners or occupiers fail to comply with a direction or a compliance order, the enforcement authorities may apply to the District Court for a prohibition order prohibiting the occupation of a relevant building or part of the building. Failure to comply with the requirements specified in a direction or compliance order shall be an offence punishable by a fine, whilst failure to comply with a prohibition order shall be punishable by a fine and by imprisonment.

The Bills Committee has held 17 meetings with the Administration and considered the views of various deputations. Members of the Bills Committee and the deputations are especially concerned about the inability of some owners to fully comply with the requirements in the Bill in respect of fire service

installations and equipment as well as fire safety construction requirement. They have pointed out that as some of the buildings covered by the Bill are of old designs, owners would have practical difficulties in complying with some specific fire safety requirements because of the physical constraints and/or structural problems of their buildings. They have also expressed concern about the financial difficulties of some owners in complying with the fire safety requirements.

The Administration has repeatedly stressed that the enforcement authorities will adopt a flexible and pragmatic approach in handling cases where owners encounter practical difficulties in complying with the fire safety standards. Owners who have genuine difficulties in meeting the requirements may propose alternative measures which can achieve the equivalent fire protection standards for the enforcement authorities' consideration. The enforcement authorities will exercise discretion in determining what relaxation or even exemptions may be granted having regard to the particular circumstances of each case. The Fire Services Department (FSD) and the Buildings Department (BD) will draw up circulars and guidance notes respectively on their exercise of discretion. The Administration has also accepted Members' suggestion on incorporating some actual examples of exceptions into the circulars and guidance notes for the reference of the parties concerned.

Regarding the financial difficulties encountered by some owners, the Administration has advised that a new Building Safety Loan Scheme (Loan Scheme) was launched by the BD in July 2001, and affected owners can apply for a low-interest loan from the Loan Scheme. Those owners in financial hardship can even be granted an interest-free loan, with deferred repayment until the transfer of the property.

Members have expressed concern that not all private buildings covered by the Bill have Owners' Corporations (OCs) to co-ordinate the improvement works in the common parts of the buildings as required under the Bill. Some members are also concerned that insufficient support has been provided to help owners and OCs in managing their buildings. These members have urged the Administration to step up efforts in this regard.

Members have also pointed out that even if a building has an OC, fire safety improvement works in the common parts of a building could still be delayed if some owners refuse or fail to pay their shares of the costs incurred.

Members are very much concerned about how this problem can be solved, and they have requested the Administration to consider undertaking the required upgrading fire safety works and recover the costs thereof from the irresponsible owners concerned.

The Administration has explained to members in detail the measures adopted by the Home Affairs Department, FSD and BD to assist owners in building management, and also owners and occupiers in complying with fire safety standards. The Administration has also pointed out that since building safety is a primary responsibility of the owners themselves, or an OC acting on their behalf, it is inappropriate of the Government to assume a responsibility on their behalf for the works on improving fire safety.

Regarding the issue of missing or irresponsible owners, the Administration has pointed out to members that the Home Affairs Bureau has proposed to amend the Building Management Ordinance to empower OCs to borrow from the Loan Scheme an amount equivalent to the costs which should be borne by missing or irresponsible owners. In borrowing from the Loan Scheme, the OC would be acting as an agent for those missing or irresponsible owners. The Director of Buildings will be empowered to register a charge against the property titles of those missing or irresponsible owners as a form of security for the loan. The Government will have the right to take appropriate measures to recover the loan from the missing or irresponsible owners concerned. It is hoped that the relevant amendments to the Building Management Ordinance can be introduced into the Legislative Council next year.

Clause 5(10) of the Bill provides that the relevant enforcement authority may establish a committee to give advice on the appropriate alternative measures in place of the standards specified in the Bill. According to the Administration, an independent advisory committee may be set up to provide impartial advice and assistance to the relevant enforcement authority in difficult cases, and to help determine what alternative measures would be appropriate. The committee may also receive representations, including oral representations as necessary, from owners of the buildings in question. If the relevant enforcement authorities reject the advice of the committee, they will have to give reasons for their decisions.

THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair.

Members have pointed out if it is the policy intent of the Administration to establish such an advisory committee to consider cases referred to it by the enforcement authorities and to consider written and/or oral representations from affected owners, the Administration should clearly spell these out in the Bill. Members have also agreed that the advisory committee should not handle petitions made by the relevant owners and that only the relevant enforcement authority may refer a case to the advisory committee. Having considered members' views, the Administration has agreed to introduce the relevant amendments.

Regarding the composition of the advisory committee, the Administration has agreed to members' suggestions to include three members of the public with an interest in fire safety and building management, one from each of the Hong Kong, Kowloon and New Territories Regions. Given the advisory nature of the committee, members have accepted the Administration's view that it is not appropriate to prescribe any committee membership in the Bill.

Clause 8(1)(b) provides that while a prohibition order is in force, the applicable owner or occupier must take all practicable steps to ensure that there is no unauthorized entry into the premises concerned. Clause 9 of the Bill provides that any person who contravenes section 8(1) is liable on conviction to a fine of \$250,000 and to imprisonment for three years, and to a further daily fine of \$25,000 if the offence continues.

Members consider that it is not reasonable to place such a responsibility on owners or occupiers, as they no longer live there. As such, they should not be held responsible for unauthorized entry into their premises. Members also consider that the penalty for contravening clause 8(1)(b) is disproportionate to the gravity of the offence. The Administration has agreed to move an amendment to the effect that the owners or occupiers concerned must take practicable steps to ensure that the relevant building or part of it is effectively secured against entry by any person other than an authorized officer or a person having a permission by the relevant enforcement authority. The Administration has also agreed to move an amendment to provide that the penalty for contravening clause 8(1)(b) would be a fine at level 4, which is currently at \$250,000 and imprisonment for six months.

The Administration has also accepted the views and various other suggestions of members and agreed to move relevant amendments.

Mr Deputy, members are very concerned about the commencement date of the Bill. Members consider that the Bill should not come into operation before the enactment of the amendments to the Building Management Ordinance empowering OCs to borrow from the Loan Scheme to cover the shares of the costs that should be borne by the missing or irresponsible owners. According to the Administration, the Bill will cover some 9 000 composite buildings and some 3 000 private domestic buildings. Having regard to the wide implications on owners and occupiers of buildings covered by the Bill and the fact that amendments to the Building Management Ordinance have not been made, members are of the view that the Administration should first consult the Legislative Council before appointing a date for bringing the Bill into effect. Some members have suggested that the commencement date of the Bill should be made by resolution of the Legislative Council.

To allay members' worries, the Administration has confirmed that it will not bring the Bill into effect before necessary amendments have been made to the Building Management Ordinance to empower OCs to borrow from the Loan Scheme to cover the shares of the costs that should be borne by the missing or irresponsible owners. The Administration will prepare a paper for the Panel on Security setting out its views and proposal for bringing the Bill into force. The Administration has also undertaken that it will not bring the Bill into operation without first obtaining the support of a great majority of members of the Panel on Security. The Administration has further undertaken that it will not appoint a commencement date that would fall within the maximum vetting period of 49 days, or such longer time as calculated in accordance with section 34 of Cap. 1. The Administration has undertaken that the Secretary will reiterate the above assurances during the resumption of Second Reading debate on the Bill.

In view of the various undertakings of the Administration, members have accepted the implementation arrangements set out in the Bill.

Lastly, the Bills Committee has urged the Administration to step up efforts to publicize the requirements in the Bill.

In the following part of my speech, I shall speak on the Bill on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB). Mr Deputy, on 21 November 1996, the worst ever building fire in Hong Kong broke out in Garley Building, Nathan Road. The fire raged for 21 hours, claiming 40 lives and injuring 81. The tragic scenes on television shocked the whole of Hong Kong, and many tough firemen at the scene were also in tears.

Following this tragedy, the Government started to make legislation on improving fire safety, with a view to protecting people's lives and property. The existing Fire Safety (Commercial Premises) Ordinance, which came into operation in 1998, seeks to prevent similar tragedies by improving the fire safety standards in old commercial buildings. The Fire Safety (Buildings) Bill, the Second Reading debate of which is resumed presently, further seeks to improve the fire safety standards in old domestic and commercial buildings. The Bill involves a 10-year scheme on improving the fire safety facilities in the 12 000 buildings all over Hong Kong, and its scope of impact will be much more extensive than that of the Fire Safety (Commercial Premises) Ordinance. For this reason, the Bills Committee has sought to scrutinize the Bill very meticulously, in the hope of looking after the needs of affected residents.

The experience of implementing the Fire Safety (Commercial Premises) Ordinance in the past few years indicates that the actual enforcement will encounter some problems at the community level, the most notable of which being disputes over fire safety standards. In Central and Western District, some old commercial buildings have in fact been used for residential purposes since occupation. If one pays a visit to these buildings, one will discover that these buildings, which are designated to be commercial buildings in their land leases, are no different from the existing tenement buildings: there is only one staircase in a six-storeyed building; most owners and occupiers are very old; buildings are dilapidated, with exposed reinforcements on the external walls and rooftops; flat sizes are small, hardly comparable to the resettlement estate units 20 or so years ago. These descriptions alone can already tell of the financial position of the residents there.

But once these owners and their OCs receive a fire safety order, they must immediately invite tenders for the improvement works required, and they must also hire approved professionals to inspect their fire service water tanks. All these large expenses will be shared by the elderly owners of buildings, and there are often just 12 flats or even six flats on one floor. This is a very heavy burden, with at least \$10,000 or so or even around \$100,000 for each flat. I am sure that the elderly owners affected will all find this unbearable. That is why fire safety standards are invariably the cause of disputes between enforcement officers and owners. In particular, under the existing economic downturn, owners are always terrified when they are told to improve fire safety standards. Fire officers all feel helpless, and what is originally a well-intentioned legislation has failed to please anybody.

One of the main concerns of members throughout the scrutiny of the Fire Safety (Buildings) Bill has been the issue of fire safety standards. They are concerned about what types of fire safety equipment are appropriate to individual kinds of buildings. They have to enhance fire safety while taking account of owners' financial ability, and they also have to strike an appropriate balance between the respective conditions of buildings and the intent of the new legislation. In this regard, the FSD and the BD have made a lot of efforts throughout the scrutiny process.

Following a series of discussions, on 21 December 2001, the FSD submitted to the Bills Committee a letter entitled "Fire Service Installations and Equipment required under the Fire Safety (Buildings) Ordinance", which it intended to issue to the relevant government departments, public utilities companies, Authorized Persons and registered contractors upon the implementation of the ordinance. The letter sets out some examples of possible relaxation with regard to fire safety standards. Besides the black-and-white undertaking in this letter, the FSD has repeatedly stressed in the Bills Committee that it will adopt a flexible and pragmatic approach in handling each case. The DAB will closely monitor the enforcement of the ordinance, and it very much hopes that the FSD can really adopt a "flexible and pragmatic approach".

For the sake of ensuring that the enforcement can take account of residents' financial ability, the Bills Committee has strongly demanded for the establishment of an advisory committee. It is hoped that when a dispute between residents and the enforcement authorities cannot be resolved in the process of enforcement, the advisory committee can play a mediating role and offer advice. The Government has finally agreed to introduce an amendment to the Bill, clearly stating that an advisory committee shall be established instead of "may be established", and to introduce additional clauses on the role and terms of reference of the advisory committee. The DAB welcomes all this, but it still has some reservations about the addition of clause 5(11), which provides that only a relevant enforcement authority may refer a case to the advisory committee. However, since the DAB worries that the advisory committee may become a bottleneck in the handling of cases due to resource constraints, it has still reluctantly accepted the suggestion of the FSD and BD. It will, however, closely monitor the operation of the advisory committee and ask the Government to review the committee's role and functions in due course. I very much hope that the Secretary can pay attention to this issue.



After resolving the major issue of fire safety standards, the Bills Committee then discussed the impact of the relevant legislation on OCs. OCs have been composed of owners who are willing to take up the "thankless" job. These owners would not usually be well versed in the professional expertise required by building management. With the series of measures introduced by the Government to improve building management in recent years, we have noted in the Panel on Home Affairs and District Councils that many OCs have expressed the view that their burden has become increasingly heavy. They have to implement improvement works and deal with their neighbours in the process. Very often, they feel that the work of OCs is all about being left "holding the bag" and "frustrations". The original version of the Fire Safety (Buildings) Amendment Bill will leave OC members "holding the bag", because under clause 19, that is, "Offences by persons concerned in management of body corporate", OC members will be held criminally responsible, like company directors; they will be held "personally liable" even in the case of mere neglect. Is it fair to impose such standards on OC members, who are just after all "voluntary workers"? If such standards are really imposed, who will still be willing to work as OC members? Urged by the strong demand of members of the Bills Committee, the Government has finally agreed to introduce an amendment on exempting OCs. The DAB welcomes this amendment.

Then, there are also the frustrations associated with timely building repairs. As in the case of demolition of illegal structures, OCs have to recover the costs of repairs from all of the owners of the building. But in case there are any missing or irresponsible owners, OCs will be very frustrated, because they can do nothing at all and must at the same time swallow their pride. Improvement works are often delayed, thus jeopardizing residents' safety. In order to eliminate OCs' long-standing problem of having to recover repair costs, the Bills Committee has strongly requested the Administration to discuss with the relevant departments. This has led to one reform. The existing Building Management Ordinance will be amended to empower OCs to borrow from the Loan Scheme as an agent on behalf of those missing or irresponsible owners. The Government will then seek to recover the loan by registering a charge against the property titles concerned. The DAB welcomes this arrangement. The Government has agreed not to implement the Bill before the necessary amendments to the Building Management Ordinance are enacted. This means that the problem mentioned above will be alleviated. That is why the DAB welcomes this amendment.

Drawing on the experience of implementing the Fire Safety (Commercial Premises) Ordinance, the Bills Committee has taken account of owners' financial ability while seeking to enhance fire safety. Specifically, it has reached a consensus with the enforcement authorities on the following four points: (1) a reasonable relaxation of fire safety standards; (2) a "flexible and pragmatic approach" on the part of enforcement authorities; (3) the establishment of an advisory committee to deal with difficult cases; and (4) amendments to the Building Management Ordinance to solve OCs' financing problem in respect of maintenance and repairs.

Let me reiterate that the DAB will closely monitor the implementation of the eventual Fire Safety (Buildings) Ordinance. It also hopes that the necessary amendments can be introduced to the Building Management Ordinance as soon as possible, so as to solve the long-standing problem faced by OCs.

Garley Building is still standing on the busy Nathan Road, reminding us that we must learn from the tragedy and take fire safety seriously. It is hoped that the enforcement authorities can work wholeheartedly with the people of Hong Kong to improve the fire safety standards in buildings all over the territory. On behalf of the DAB, I wish to take this opportunity to thank the FSD, BD and the Security Bureau for their efforts during the scrutiny process.

Mr Deputy, with these remarks, and on behalf of the DAB, I wish to express support for the relevant amendments.

**MRS SOPHIE LEUNG** (in Cantonese): Mr Deputy, I am going to put forth views about the Fire Safety (Buildings) Bill (the Bill) on behalf of the Liberal Party.

Just now the Chairman of the Bills Committee has referred to the Garley Building fire. Recently in Beijing, a fire in a cyber cafe took the lives of over 20 young people. The incident reminds us once again of the best way to improve fire safety of buildings and to prevent disaster is to take precautionary measures. Therefore, owners in every building, especially old buildings, should be obligated to improve the fire safety structure of their buildings, in order to ensure compliance of the fire service installations and equipment with the standard.

The Bill empowers the BD and the FSD to require an owner of a composite building completed before 1 March 1987 to improve the fire safety measures in the building, such as an automatic sprinkler system, a fire hydrant and hose reel system, a fire alarm system, an emergency lighting in the common areas, and the improvement of exit routes. At present, many buildings of 15 years' old or more do not meet present-day fire safety standards. Occupants in these buildings and people work inside the commercial premises of these buildings are either constantly living on their nerves, or they are not aware of the fact that they are living with a potential hazard. There is a need to improve all of these situations.

The Liberal Party also welcomes the undertaking made by the enforcement authorities to enforce the ordinance in a flexible and pragmatic approach. For instance, if the rooftop of a building cannot support a standard fire service water tank due to structural limitations, owners may apply for the installation of a water tank of smaller capacity. Where justified, the installation of fire hydrants inside a low-rise building of several storeys could be waived if firemen can lay the hose within a short period.

Certainly, improving the fire service equipment may constitute a heavy financial burden to many old buildings' owners, whilst some owners may even refuse to bear the cost and may obstruct the OCs to carry out improvement works. Nevertheless, the loan scheme launched by the Government is restricted to individual owners only, thus corporate owners or OCs may not necessary meet the requirement of application.

The problem is that many old buildings have already formed OCs to manage their own buildings. When the ordinance comes into operation, the OCs have to assume legal responsibility for the building as far as fire safety is concerned. However, another important matching measure of the Bill, the loan scheme, cannot offer a solution, pending amendments to the Building Management Ordinance.

This issue had aroused scores of controversies within the Bills Committee. Eventually, the Government undertook that it would keep on studying the effective date of the Bill and submit papers to the Panel on Security. Moreover, it also undertook that it would not appoint a commencement date which would fall within the maximum vetting period of 49 days. In view of the urgency of improvement to fire safety, this is after all Hobson's choice.

Lastly, the Bills originally stipulated that if a body corporate is convicted of an offence under the Bill, and if it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, a director of, or other person concerned in the management of the body corporate, the director or other person so concerned also commits the offence.

The majority of members are of the opinion that members of the management committee of an OC would easily be held responsible for negligence in running the OC, having regard to the fact that what constitutes an act of neglect is very wide. The Liberal Party also considers it necessary to amend this provision. We are glad to see the Government has accepted the suggestion of the Bills Committee to delete the relevant wordings.

With these remarks, I support the Second Reading of the Bill on behalf of the Liberal Party.

**DR YEUNG SUM** (in Cantonese): Mr Deputy, I rise to speak in support of the Fire Safety (Buildings) Bill (the Bill).

Mr Deputy, I consider the way in which the Government and Members have handled the Bill exceptionally good. Just now Mr IP Kwok-him said that there are many six-storeyed old buildings in the Central and Western District with just one or two flats on each floor. My office has also received petitions from many elderly people who asked me to champion for their cause. They said that the Government had required them to chip in for the purpose of installing sprinkler systems and the fire service water tank, but they were unable to do so as other owners were reluctant to meet the costs and the OCs were not yet formed, therefore they did not know what they should do. The policy intent of the Bill is good, and especially after the Garley Building fire, the Government really wants to regulate the situation by way of legislation. I can appreciate the good intentions of the Government. However, a lot of kaifongs, especially occupants living in old buildings, are actually facing great difficulties.

After repeated deliberations, an innovative approach has been adopted, that is, an independent advisory committee on fire safety issues would be set up

for determination of fire safety design standards. This is indeed very good. When I talked to the station officers of the FSD, they said: "Mr YEUNG, human lives and limbs are at stake, therefore we cannot make any concession. If anything happens, who would be held responsible?" Of course, I have told them the difficulties of many kaifongs. Now that an independent advisory committee is established, so everybody may have a chance to discuss the matter. If anyone considers a certain standard is desirable, then it can be put into practice. Therefore, this is a very good approach.

The next thing is the question of money. A loan scheme is established now so that occupants may borrow low interest loan from it. Mr Deputy, the body corporate aspect is indeed a big problem, since a lot of old buildings have not set up OCs, nobody would take the initiative to do that, besides, most of the owners are not professionals. It is indeed an added burden to them if we ask them to form an OC. Now that the Government has come up with a solution, that is, to amend the Building Management Ordinance (Cap. 344), so that the OCs may recover the arrears from owners who are reluctant to share the costs, or may even register a charge against the relevant property in order to force the owners to pay. The Administration will only propose a suitable commencement date for the Bill after these provisions have come into operation and subject to agreement by the majority of members of the Panel on Security.

As a result, I cannot help sing a praise on the Government and Members for having worked out such an innovative approach to deal with issues concerning public safety, one that may take care of the safety of society on the one hand, and show that it is aware of the hardships of the common people on the other. I hope the Government will propose a suitable commencement date for the Bill only after a while, in order to allow the endorsement by Members of this Council, that is, some flexible and practical approaches should be adopted in these cases. Very often we do not know whether acts out of good intentions may become evil deeds. We are often trying to do something for the good of the community, but if the steps cannot take account of public sentiments, the policy itself may arouse the resentments of the people, which will do no good to anyone. I cannot help commending the flexible approach adopted by all parties in this case, therefore I have risen not only to speak in support of it, but also to put it on record. Thank you, Mr Deputy.

**MR JAMES TO** (in Cantonese): Madam President, I am speaking purely for the record. I have prepared a speech but do not want to read from it, because it would be necessary for an essay to have an introduction, elaboration, transition and a conclusion, and it would take time to read it out.

I have heard what Mr IP Kwok-him of the DAB and the Honourable Mrs Sophie LEUNG of the Liberal Party said. I believe the views of the Democratic Party have in fact been fully conveyed to the Bills Committee. The Democratic Party agrees fully with what they have said and believes that on this issue, a lot more still needs to be done to assist members of the public at the district level. We can assume a role akin to lubricants because we fully understand the requirements of the Government, therefore we can help solve problems relating to some grey areas. I also expect that there will be quite a lot of complaints, so I hope all of us can tackle them together in a sensible and reasonable way. On this matter, no politics is involved. I only hope that all parties can join hands to deal with this matter properly. Thank you.

**DEPUTY PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Security to reply. This debate will come to a close after the Secretary for Security has replied.

**SECRETARY FOR SECURITY** (in Cantonese): Mr Deputy, the Fire Safety (Buildings) Bill was tabled before the Legislative Council on 14 February 2001 for First and Second Readings.

I am very grateful to Mr IP Kwok-him and other members of the Bills Committee for their careful scrutiny of the Bill in the 17 meetings. After detailed discussions, we have secured the support of the Bills Committee for the Bill as well as a number of amendments. These amendments, which I will explain at the Committee stage, serve to refine the legislative proposal.

THE PRESIDENT resumed the Chair.

The policy objective of the Government is to impose appropriate statutory fire safety standards on the fire service installations and fire safety construction of buildings, having regard for the fire hazards of individual buildings and premises, in order to better protect people working, seeking entertainment or living there against the risk of fire. The Government's strategy is two-fold:

First, the Buildings Ordinance and the Fire Services Ordinance set out the statutory fire safety standards for various types of buildings, and these standards must be complied with in the course of construction and when carrying out repairs and maintenance works in buildings. Fire safety standards will be constantly upgraded as society progresses. But the new standards are only applicable to the newly-developed buildings, whereas old buildings only have to comply with the standards adopted at the time when the buildings were constructed. This situation is not satisfactory. For example, the automatic sprinkler system which is very effective for extinguishing fire was first made a statutory fire service installation for commercial buildings with a height of 30 m or above only in 1973. Later in 1987, this requirement was extended to all commercial buildings irrespective of their height and also the commercial parts of composite buildings measuring over 230 sq m in area. To protect the citizens, we enacted new legislation in 1997 and 1998 respectively, requiring commercial premises with a heavy traffic of people and high fire risks (such as banks, supermarkets, shopping arcades and department stores) as well as pre-1987 commercial buildings to upgrade their fire safety measures to meet the 1987 standards. This Bill seeks to move one step forward by requiring all pre-1987 composite (commercial/domestic) buildings and pure domestic buildings to upgrade their statutory fire safety standards accordingly.

Second, with regard to certain types of premises, given such factors as their nature, purpose of use, and so on, the fire safety standards of the premises may not be sufficient to ensure public safety. Moreover, the operation of such premises may involve policy areas beyond fire safety, such as public hygiene, management, building safety, and so on. It is, therefore, necessary to set up a licensing system for monitoring purposes. These premises include hotels, catering establishments, clubs, video game centres, and so on. The Karaoke Establishments Bill, on which the Second Reading debate will resume today, serves to further include karaoke establishments in the scope of regulation, in an effort to enhance protection for public safety.

What I have just said concerns improvements to the hardware. Other than hardware, software is equally important to ensuring fire safety in Hong Kong. In the Mainland, Hong Kong and even overseas countries, apart from the lack of modern fire service equipment, the causes of fire that resulted in serious casualties in many cases often involved locked escape doors, blocked emergency exits, smoke doors being left open, and so on. The strategy of the SAR authorities is to actively promote a fire safety culture and inculcate in the public an awareness of fire prevention on the one hand, while stepping up law enforcement and vigorously combating acts that contravene the Fire Services Ordinance and cause fire hazards on the other. As at May this year, the FSD has organized 833 fire drills and 1 170 talks, seminars and exhibitions. The FSD has also trained up more than 26 000 Fire Safety Ambassadors to promote the message of fire prevention to every corner of society. In respect of enforcement, the FSD issued over 21 000 fire hazard abatement notices in 2001 and mounted over 500 prosecution operations to strengthen the deterrent effect, for prevention is always better than cure.

We can see from the above that the Government has in place a set of systematic strategies for continued implementation to ensure that the fire safety standards of buildings and fire safety culture are in keeping with the times and responsive to the problems arising from changes in the way of life in society. This is very important, because we have experienced many tragic accidents in the past. For example, the fire at the Hongkong Bank branch in Shek Kip Mei in 1994 in which 12 were killed and one injured; the fire at Garley Building in 1996 which resulted in 40 deaths and 81 people injured; the fire at Mei Foo Sun Chuen in 1997 in which nine were killed and 37 injured; the fire at a karaoke in Prat Avenue in the same year which resulted in 17 deaths and 13 people injured; and recently, a fire also broke out at a cyber cafe in Beijing and cost the lives of 25 people. We must learn a lesson, take preventive measures before problems arise, and be determined to formulate and implement the relevant policies progressively.

I understand that Members are all committed to protecting public safety, so they are very supportive of the Government's policies on fire protection and agree to improve the statutory fire safety standards of old buildings through this Bill. To ensure smooth enforcement of this piece of legislation in future, Members have raised many concerns and made many valuable suggestions; and I wish to briefly respond to them.



In respect of financial support, an issue of particular concern to Members is the financial burden on the owners with the implementation of the new statutory fire safety standards. In fact, the fire safety measures stipulated in the legislative proposal are the most basic requirements, mainly about the provision of more suitable fire service installations and equipment to help put out fire, and also improvements to the fire safety construction of buildings to protect exit routes and fireman's access and to prevent spread of fire to other parts of the building or to adjoining buildings. The standards adopted in the Bill have struck the right balance between the protection of public safety and the consideration of the owners' burden. To alleviate the financial difficulties encountered by some owners in compliance with the new provisions and to provide more comprehensive financial assistance for owners to enhance building safety, the authorities introduced in last July the Building Safety Loan Scheme with a commitment of \$700 million to provide low-interest or even interest-free loans for applicants with financial difficulties. The term of repayment is 36 months and extendable to 72 months. Elderly borrowers in particular financial difficulties can apply for deterred repayment until the transfer of the title of the property.

As this Bill covers old buildings that were built before 1987, Members are concerned that owners may not be able to comply with the requirements set out in the fire safety directions issued by the authorities due to problems concerning the structure or design of their buildings. In this connection, the enforcement mechanism of the Fire Safety (Commercial Premises) Ordinance which has been implemented since 1997 has operated effectively in upgrading the fire safety standards of old commercial premises. The enforcement authorities will, base on their enforcement experience for years, make every effort to assist the owners, advise them on how to comply with the fire safety directions and urge them to employ qualified professionals to carry out the necessary improvement works. For cases in which owners face practical difficulties, the FSD and the BD have undertaken to handle these cases in a pragmatic and flexible manner as in the past and allow owners sufficient flexibility on a discretionary basis where the circumstances permit, such as extending the grace period for compliance with the directions, or actively considering the other effective fire safety measures proposed by owners in place of the original requirements specified in the directions. In this connection, I would like to cite a specific example to explain my point.

More often than not I hear people criticize that given structural constraints, there is not enough space or load-bearing capacity to support the installation of water tanks for the hose reel system and the automatic sprinkler system in old buildings. If such being the case, the FSD is very willing to consider handling the case flexibly. For instance, if the conditions of the building do not allow the installation of a standard water tank, a water tank with a capacity below the standard may be accepted; or the hose reel system and the automatic sprinkler system can share the same water tank, so that the spatial and load-bearing requirements will be reduced. The FSD may even accept that an automatic sprinkler system be installed without a water tank and that the system be supported directly by the water supply system of the Water Supplies Department.

Certainly, whether exemptions can be granted will be considered on the merits of each case; and in some cases, the situation may be more complicated. One of the proposals of the Bill is to empower the Director of Fire Services and the Director of Buildings to set up an advisory committee to give independent advice to the enforcement authorities on the more complex applications involving alternative measures. In this connection, we have accepted the views of Members. That is, apart from members of the construction industry, representatives of the relevant professional bodies and academics, membership of this committee will also include a number of laymen who are interested in fire safety of buildings and building management in order to reflect the views of owners. We will also introduce amendments to the Bill to enhance the provisions on the role of the advisory committee. I will explain the details at the Committee stage later on.

Another issue of particular concern to Members is how to ensure compliance by all owners in multi-storey buildings with the relevant statutory orders (such as the fire safety directions issued under the Bill), so that all owners will work in concert and share the responsibilities to properly maintain and improve the facilities in the common areas of the buildings. In the event of individual owners being irresponsible or whose whereabouts are unknown, the other owners may have to pay for them before the necessary works can commence. Under the existing law, OCs can take all reasonable and necessary measures to recover payment from missing or irresponsible owners for their shares of the costs of works. To further assist OCs to collect the full capital for works, the Home Affairs Bureau has drawn up a preliminary proposal to amend the Building Management Ordinance to empower the OCs to apply for loans from the Government on behalf of the irresponsible or missing owners for the

purpose of carrying out the statutory repairs and improvement works in their buildings. The Government will also be empowered to register a charge against the title of the property of the owners concerned. Members of the Panel on Home Affairs generally support the direction of this proposal and have provided input on how this proposal can be effectively implemented. The Home Affairs Bureau will consider Members' views and then start drafting the legislative amendments and the relevant implementation details. If practicable, the amendments will form part of the package of proposed amendments to the Building Management Ordinance (Cap. 344) in future.

As for the arrangement for the commencement of the new Ordinance, during the discussions of the Bills Committee, members already stated explicitly that given the present economic conditions and as the Building Management Ordinance has yet been amended to facilitate OCs to taking out loans, the Bill, even if enacted, should not take effect immediately. We share this view of members. It is our clear intention to consider all circumstances relevant to the implementation of the Bill before we propose a commencement date for it. One of the important factors that we will consider is whether the above amendment has been made to the Building Management Ordinance to enable OCs to borrow loans from the Government on behalf of the missing or irresponsible owners and set up a mechanism to recover payment from those owners for their shares of the costs. In terms of procedure, we will, when the time is ripe and circumstances permit, prepare a paper for the Legislative Council Panel on Security, setting out our views and proposal for bringing the Fire Safety (Buildings) Bill into force. This would enable the Government to benefit from the advice of Members and, if necessary, revise our proposal. Only when we have obtained the support of a majority of members of the Panel on Security will we appoint a commencement date for the new Ordinance by notice in the Gazette. To ensure that the procedure of the Legislative Council's scrutiny of the commencement notice is not precluded from taking its full course, we will not appoint a commencement date that would fall within the maximum vetting period.

After the passage of the Bill, we will actively conduct publicity to ensure that those affected by the future implementation of the Ordinance will understand as early as possible the required improvements to their buildings pursuant to the upgraded fire safety standards, so that they can have ample time to make preparations. For example, if they intend to carry out extensive repairs and maintenance works at their buildings, they can consider taking this opportunity to

carry out works consistent with the fire safety requirements specified in the new Ordinance. If owners of a building wish to carry out the necessary fire safety improvement works earlier than required, the enforcement authorities will be happy to provide assistance to enable these buildings to reach the statutory standard earlier. When we have obtained the full support of Members and after the official commencement of the Ordinance, the enforcement authorities will implement on a full scale the statutory scheme to improve the fire safety of old buildings, step up inspections of buildings, and issue and follow up fire safety directions, in the hope that 9 000 old composite buildings can first be dealt with within 10 years, to be followed by another 3 000 old domestic buildings. In implementing this scheme, the enforcement authorities will consider such factors as the age and conditions of buildings, and will closely liaise with the Urban Renewal Authority to keep tabs on the progress of urban renewal, in order to set priorities in respect of building inspection and enforcement. Our objective is to improve the fire safety of old buildings in a reasonable and expeditious manner, whilst making an all-out effort to minimize the impact on the public.

To maintain Hong Kong as a stable and peaceful metropolis and a cosmopolitan city in Asia, good fire safety conditions are simply indispensable. Madam President, I am grateful to Members who have spoken in support of the Fire Safety (Buildings) Bill in this debate. I sincerely hope that they will continue to support the Third Reading of the Bill. Certainly, it is also hoped that they will support the amendments that I will propose at the Committee stage later.

I beg to move. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Fire Safety (Buildings) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Fire Safety (Buildings) Bill.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

### **FIRE SAFETY (BUILDINGS) BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Fire Safety (Buildings) Bill.

**CLERK** (in Cantonese): Clauses 1 to 4, 10, 11, 15, 18 and 20 to 25.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 5 to 9, 12, 13, 14, 16, 17 and 19.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move the amendments to clauses 5, 6, 7, 8, 9, 12, 13, 14, 16, 17 and 19 of the Fire Safety (Buildings) Bill, as set out in the paper circularized to Members.

Clause 5(10) of the Bill authorizes the Director of Fire Services and the Director of Buildings to set up an advisory committee to advise them and to assist the enforcement authorities in considering the adoption of appropriate measures for a certain case, in place of requirements prescribed in the fire safety direction. To more clearly reflect our policy intent, we propose making amendments to specify that the Director of Fire Services and the Director of Buildings must set up such an advisory committee. We have accepted Members' views and proposed adding new clause 5(11) to (13) to clearly define the roles and functions of the newly established committee. These include, *inter alia*, the provision that only the enforcement authority may refer a case to the advisory committee for advice, and the advisory committee may, before giving advice on any case referred to it, receive representations from an owner of a building to whom the case is related, and the Director of Fire Services and the Director of Buildings must consider the advice given by the advisory committee before making the final decision.

Clause 7 of the Bill seeks to specify the jurisdiction of and procedures to be taken by a District Court to issue a prohibition order in the event of non-compliance with a fire safety direction or a fire safety compliance order. As a prohibition order would prohibit the occupation of the relevant building or part of a building, Members took the view that besides notifying the relevant owner or occupier seven days before filing an application for a prohibition order under clause 7(4), the enforcement authority should also post a copy of such notice in a conspicuous place inside the relevant building to ensure that the notice is acknowledged by all the relevant parties. We have gladly accepted Members' views and proposed adding new clause 7(4)(a).

Clause 8 of the Bill specifies the effects of the prohibition order issued under clause 7, and clause 8(1)(b) requires the relevant owner to take all practicable steps to ensure that nobody other than the authorized persons can occupy the relevant building or part of a building. Since the reference to the responsibility may not be specific enough, we agreed with Members and proposed amending clause 8(1)(b) to clearly indicate that the relevant owner only has the responsibility to take all practicable steps to effectively prevent entry to the building by unauthorized persons. We also agreed that the gravity of the

offence prescribed under clause 8(1)(b) was incommensurate with the punishment prescribed under clause 9, thus, we proposed amending clause 9 to reduce the fine for contravening clause 8(1)(b) from a maximum fine of \$250,000 and three years' imprisonment to a maximum fine at level 4, that is \$25,000 and six months' imprisonment.

Clause 13 of the Bill empowers the owner or occupier to apply to the District Court for revocation of the prohibition order and specifies the relevant statutory rights. The way in which clause 13(3) is drafted is restrictive in that the Court can revoke the prohibition order only if it is satisfied that the relevant fire safety direction or fire safety compliance order has been complied with, otherwise, it must reject the application. We agreed with Members that the authority of the Court should not be restricted, therefore, we proposed amending clause 13(3) to authorize the Court to make any order, as it thinks fit.

Clause 14 of the Bill specifies the registration of the fire safety compliance order, prohibition order, revocation of such orders and certificate of compliance against the land register of the relevant property in the Land Registry. To more clearly reflect our policy intent and further protect owners, we have proposed amending clause 14 to explicitly state that the enforcement authority has the responsibility to register by memorial the relevant instrument against the land register of the relevant property in the Land Registry within one month from the date of certificate of compliance or the revocation or discharge of the prohibition order.

Clause 16 of the Bill empowers an authorized officer to enter the relevant part of the building without a warrant. Members took the view that in exercising the power, it should be taken into consideration that the entry of the relevant officer to part of a building intended for domestic purpose might be inconvenient to the occupier of the building. For better protection, we proposed amending clause 16 to additionally specify that an authorized officer must give a notice in writing before an intended entry to the relevant part of the building for domestic purpose.

Clause 19 of the Bill specifies an offence related to a person concerned in the management of a body corporate. A body corporate includes Owners' Corporations incorporated under the Building Management Ordinance (Cap. 344). Members took the view that the management, operation and structure of

an OC differ from that of a corporation, in particular, a person concerned in the management of the OC performs his duties voluntarily. Therefore, it is unfair to require these people to bear criminal liability under this Bill as a result of negligence, just like a person concerned in the management of an ordinary body corporate. We have accepted Members' views and proposed amending clause 19 to specify that a person concerned in the management of an OC would only commit a criminal offence when it is proved that the offence was committed with the consent or connivance of a person concerned in the management of the OC. Other amendments proposed comprise textual amendments, technical amendments and consequential amendments.

All the above amendments were proposed after detailed discussions by the Bills Committee which also endorsed them. I hope Members will support the passage of the relevant amendments be passed. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 5 (see Annex V)**

**Clause 6 (see Annex V)**

**Clause 7 (see Annex V)**

**Clause 8 (see Annex V)**

**Clause 9 (see Annex V)**

**Clause 12 (see Annex V)**

**Clause 13 (see Annex V)**

**Clause 14 (see Annex V)**

**Clause 16 (see Annex V)**

**Clause 17 (see Annex V)**

**Clause 19 (see Annex V)**



**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

**MR IP KWOK-HIM** (in Cantonese): Madam Chairman, the Secretary has already explained each proposed amendment in detail, so I only wish to make a minor supplement.

I have already expressed the views of the DAB during the Second Reading debate earlier, but I should like to repeat one point, which is related to clause 16(1). According to the original wording of the Bill, the Administration may enter and inspect the same unit of a building without warrant. This provision was drafted with reference to the relevant situation specified in relation to commercial buildings under the Fire Safety (Commercial Premises) Ordinance. However, Members were of the view that when applied to domestic buildings, this provision might involve privacy concerns. Hence, after discussions, the Government accepted Members' view and agreed to move an amendment to specify that the Administration must give at least 24 hours' prior notice in writing. The DAB welcomes this proposal and I should like to take this opportunity to reiterate the DAB's stance on the proposed amendment. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**CHAIRMAN** (in Cantonese): Secretary for Security, do you wish to speak again?

(The Secretary for Security indicated that she did not wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Security be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 5 to 9, 12, 13, 14, 16, 17 and 19 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedule 3.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedules 1 and 2.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move that the marginal notes to the heading to Schedule 1, clause 2 to Schedule 1 and the marginal notes to the heading to Schedule 2, be amended, as set out in the paper circularized to Members.

The above amendments are technical or consequential in nature. All of the above amendments were proposed after detailed discussions by the Bills Committee which also endorsed them. I urge Members to support the amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Schedule 1 (see Annex V)**

**Schedule 2 (see Annex V)**

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Security be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedules 1 and 2 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **FIRE SAFETY (BUILDINGS) BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the

Fire Safety (Buildings) Bill

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Fire Safety (Buildings) Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Fire Safety (Buildings) Bill.

### **Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Karaoke Establishments Bill.

### **KARAOKE ESTABLISHMENTS BILL**

#### **Resumption of debate on Second Reading which was moved on 17 January 2001**

**PRESIDENT** (in Cantonese): Mr James TO, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR JAMES TO** (in Cantonese): Madam President, I rise to speak in my capacity as Chairman of the Bills Committee on Karaoke Establishments Bill. However, I will not do so like singing in a karaoke establishment (KE).

The Bills Committee has held 29 meetings. The Bills Committee has invited the public to give views on the Bill, and has received a total of 161 written submissions from KEs and individual persons (including employees of KEs).

The Bills Committee has also met with the Karaoke Requirements Concern Group which represents operators of seven KEs and the International Federation of the Phonographic Industry on two occasions. At the request of the Concern Group, the Bills Committee has also met with Prof DRYSDALE of the Department of the Civil and Environmental Engineering of The University of Edinburgh and representatives from the Northcroft Hong Kong Limited. In addition, members of the Bills Committee have also visited a number of KEs in Kowloon but they did not sing there.

The background leading to the drafting of the Bill can be traced back to a major fire at the Top One Karaoke in January 1997 which killed 17 persons. Subsequent to the fire incident, an inter-departmental working group was set up by the Administration to co-ordinate efforts to better control KEs. The inter-departmental working group concluded that the most effective way to institute the necessary fire safety, building safety and public safety requirements on KEs is to introduce a statutory licensing system. The Bill proposes that the licensing authority may grant permits to KEs located in premises in respect of which a licence or certificate of compliance has been issued under other legislation, such as restaurants, clubs, hotels and guesthouses. For KEs located elsewhere, the operators concerned will be required to apply for a licence with the licensing authority.

Madam President, since a detailed account of the Bills Committee's deliberations has been given in the Report tabled by the Committee today, I will now highlight some of the more important or more controversial points.

The Bills Committee has discussed the necessity of the Bill. A member is of the view that the Administration should review the adequacy of the fire safety standards imposed on compartmentalized premises, instead of introducing a licensing regime for KEs. Another member has strong reservations about various provisions of the Bill and the draft Karaoke Establishments (Licensing) Regulation which impose stringent requirements on the karaoke trade. He shares the views of some of the major karaoke operators that many existing KEs have already undertaken adequate measures to improve fire and building safety of the premises, and consideration should be given by the Administration to exempt them from compliance with the proposed licensing requirements.

According to the Administration's explanation, general fire safety measures cannot adequately address the fire hazards associated with, such as the special closed-cubicle layout of most KEs. A set of prescribed minimum standards to ensure fire and public safety in KEs is essential.

A major criticism of the Bills Committee is that the definitions of "karaoke" and "karaoke establishment" under the Bill may be too wide, and that the scope of application of the Bill is unclear. After consideration, the Administration proposes that the Bill will not apply to premises meeting the following criteria:

- (a) the aggregate floor area of the karaoke rooms is not more than 30 sq m; and
- (b) the number of rooms used for karaoke activities does not exceed three.

However, exemption for other KE activities not covered by the proposed exemption criteria will be considered, upon application, under clause 3(1)(e).

Members consider that the criteria for granting an exemption order under clause 3(1)(e) should be expressly provided in the Bill, and that the fact that "*bona fide*" restaurants could be exempted by way of an order under the clause should also be spelt out clearly in the Bill.

The Administration has agreed to introduce amendments to narrow the scope of applicability of the Bill and rationalize the types of premises to be exempted under the Bill, including setting out clearly the "three rooms/30 sq m" exemption provision and adding a new provision to spell out the criteria to be adopted by the licensing authority in granting exemption from applying for a KE permit or licence.

A member has expressed concern that the proposed level of fine for operating KEs without a permit or licence might be too low to achieve deterrent effect. Having considered similar provisions in other ordinances, the Administration has agreed to raise the level of penalty and thus proposed to impose a penalty of a fine at level 6 (\$100,000) and imprisonment of one year on a second or subsequent conviction for operating KEs without a licence or permit. In the case of a continuing offence, the daily fine is proposed to be increased from \$1,000 to \$2,000 for each day during which the offence continues.

The Bills Committee has also expressed concern over the requirement for the applicant to be a fit and proper person to operate the KE. According to the Administration's explanation, under clause 7(1), a body corporate or a partnership may authorize a physical person to apply for a permit or licence. Whether the permit or licence is issued to a partnership or legal entity, the physical person concerned will still be held responsible for all matters pertaining to the permit or licence issued. Hence, only the authorized person is required to satisfy the requirement of being "a fit and proper person to operate the KE" under clause 5(3)(a)(i).

Having regard to the fact that many KEs may operate 24 hours a day, members have expressed concern whether "personal supervision" of the KE by the grantee or licensee will be imposed as a licensing condition. The Administration has advised that clause 5(3)(a)(ii) provides that the person making the application "will adequately supervise or will ensure the adequate supervision of the operation of the KE". Hence, a licensing condition requiring personal supervision and, only personal supervision by the grantee or licensee, would be *ultra vires* under the enabling legislation.

Some members have also raised concern that undue disruption might be caused to the operation of a KE if the authorized person dies, disappears or otherwise fails to function. The Administration has advised that under clause 7, the body corporate would be the grantee or licensee, not the authorized person. The Administration has also agreed to stipulate a licensing condition to the effect that during the period when the licensing authority has been informed of the change of the authorized person but not yet determined whether or not to accept the new authorized person, there will be no breach of the relevant requirement on the part of the licensee.

The Bills Committee is also concerned that in considering the suitability of the place and area of the proposed operation, the licensing authority may take into account the views of persons whose place of residence or employment is in the immediate vicinity of the place of the proposed operation under clause 5(6). In view of this public consultation process, some members consider that objective criteria for assessing "suitable place" and "suitable area" should be expressly provided in the Bill. According to the Administration's explanation, the clause only empowers the authority to consider such view if it is then given in some cases, the suitability of the premises and the area in which it is located remains the prime consideration and any decision made by the licensing authority



must be reasonable and objective. Nevertheless, in the light of the strong objection raised to clause 5(6) by some members, the Administration has agreed to delete clause 5(6) from the Bill. However, the Administration has pointed out that as a matter of policy, the licensing authority could take into account the views of persons residing or working in the immediate vicinity of the place of proposed operation, with or without the statutory provision of clause 5(6).

Another controversial provision is clause 5(3)(c), which requires that the grant and issue of permits or licences is not contrary to the public interest. A member is of the view that the term "public interest" in the Bill is too wide and should be qualified with reference to the main objective of the Bill, that is, instituting the necessary fire and building safety requirements on KEs. The Administration's view is that since the term "public interest", being fluid in itself, is rarely qualified, thus it is neither appropriate nor necessary to set out the criteria for assessing "public interest" under clause 5(3)(c). Nevertheless, in view of members' strong views, the Administration has agreed to delete clause 5(3)(c) in the end.

Regarding the power of enforcement officers to seize apparatus or equipment and the power of the Court to order the forfeiture of such apparatus or equipment, some members consider that the scope of power conferred on the enforcement officers is too wide and the relevant provisions are too harsh on the KEs. Members consider that a balance should be struck between effective enforcement and protection of the commercial interests of operators of KEs. After consideration, the Administration has agreed that the power of seizure under clause 13 will only be exercised subject to a warrant issued by a Magistrate and for the purpose of ensuring compliance with the provisions of the Bill.

Some members has requested the Administration to consider whether all the three different means stipulated in clause 18, namely, by personal service, by registered post or by posting the same in a prominent position near the premises, should be employed for service of notice on remedial works under clause 14(1), and notice of intention to apply for a closure order under clause 15(1). They have expressed serious concern that personal service of a notice or order is deemed to be valid, even if it is served on any staff member, such as a cleaner or watchman of such establishments.

The Administration has expressed reservations about imposing on the licensing authority a statutory requirement to employ all different modes of

service of notices or orders, as practical difficulties would be caused if the notice or order was unable to be served by one or some of the means, and would impede the effective enforcement of the licensing regime. Nevertheless, to allay members' worry about serving by personal service a notice under clause 14(1), the Administration has agreed to give an undertaking in this connection in the speech to be made by the Secretary for Security today.

Given that the service of notice of intention to apply for a closure order under clause 15(1) is of a more serious nature, members have requested the Administration to reconsider adopting means of service of notice other than those specified under clause 14(1). The Administration has subsequently agreed that the relevant notice should be served by registered post addressed to the last known place of business or residence of the person to be served, and by leaving a copy with an adult occupier or posting a copy in a prominent position of the premises concerned.

The Bills Committee has also discussed the draft Karaoke Establishments (Licensing) Regulation provided by the Administration. As regards requirements of particular concern to the industry, such as the one-hour fire resistance internal corridors, minimum width of 1.2 m of corridor, dead-end corridor, and so on, the Administration finally has agreed to amend the requirements and to implement them in phases after repeated discussions with the industry.

Lastly, at the request of the Bills Committee, the Secretary for Security has agreed to give five undertakings at today's meeting. The details of the undertakings are given under paragraph 96 of the Bills Committee's Report.

Madam President, I should like to take this opportunity to express my gratitude to the members of the Bills Committee and all the concern groups for their active participation. Indeed, not many concern groups could manage to attend all the 20 to 30 meetings held. I am also grateful to the Administration for accepting to a large extent the views of the Bills Committee and the aforementioned as well as other Committee stage amendments it is going to move to perfect the Bill. I should also like to take this opportunity to thank the Legislative Council Secretariat for the effective support services provided for us. Since we have formulated such a perfect Bill, perhaps we may visit a KE with the Secretary or other Honourable colleagues for relaxation in future.

With these remarks, I support the Second Reading of the Bill.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

**MR LAU KONG-WAH** (in Cantonese): Madam President, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the making of legislation to control the KEs. The fact that Hong Kong did not have any legislation regulating KEs was revealed in the wake of the fire at a karaoke in 1997 that caused more than a dozen deaths. The tragic fire incident was attributable to a number of reasons in addition to an arson attack. The peculiar designs of KEs will invariably become traps in fire incidents. For instance, large KEs with dozens or even more than a hundred rooms linked up by winding corridors are just like large labyrinths, customers not familiar with the place will have difficulty finding an exit promptly in case of fire. It was because the karaoke did not have enough signs showing clearly the way to the exit that many people trapped in the fire were unable to get out of the labyrinth then. Further still, the sofas and audio-visual equipment installed in each of the rooms may also become traps of fire. If the KEs have flammable furniture and do not handle the electrical wires properly, such things can become an accessory to a fire.

The rooms in the KEs are generally equipped with acoustic insulation, and people drowned in the music singing in the rooms just may not know what is going on outside. In the end, they will be swallowed by the fire rather than the music and killed. From this we can see that the winding corridors, flammable furniture, closed rooms, and so on, can all become traps in a fire that costs lives. So, it is obvious that there is an urgent need for improvements to be made to the fire safety, building safety and public safety of KEs.

In order to prevent similar tragic incidents from recurring, the Government has set up an inter-departmental working group to look into ways to regulate KEs. The DAB supports setting up a working group to review the regulatory matters. Insofar as the regulatory measures are concerned, it is by no means easy to strike a balance between the need to prevent fire tragedies from recurring on the one hand, and the need to pay due regard to the practical difficulties encountered by the industry on the other. That is one of the reasons why the Bills Committee has to hold almost 30 meetings over the past one and a half years to examine the Bill.

The necessity of the Bill is one of the issues discussed over and over again by the Bills Committee. In the opinion of the DAB, it is necessary to formulate a specific set of legislation to regulate KEs. Yet some other Members are of the opinion that since the existing KEs are already subject to certain requirements under various ordinances, the demand of the public in this respect can be addressed just by making some amendments to such requirements. The DAB cannot subscribe to this view. We hold that the fire safety measures and regulations governing other premises cannot adequately address the fire risks associated with KEs. Formulating a specific set of standards regulating KEs is helpful to ensuring that the KEs can meet the most appropriate and basic fire safety and public safety requirements.

Moreover, the karaoke trade also holds that imposing over-stringent statutory requirements on KEs will affect adversely the interests of the trade and thereby impact on the confidence and incentive of investors. In the end, the economy of Hong Kong will suffer. The karaoke trade believes the conversion works to change the layouts of KEs, such as widening the corridors and accesses, will add to their financial burden and has therefore questioned the need for such works which impact on them gravely. The DAB considers that the members of the trade voicing out their opinions are the sincere investors and will most probably adopt the corresponding safety measures for their KEs. However, because the lack of licensing control, there are both weeds and seedlings in the trade. Many small KEs and even those KEs "crying up wine and selling vinegar" are striving to exploit the loopholes in the law to avoid regulation. But then, the Government still has a responsibility to safeguard the consumers patronizing such KEs. Moreover, even though the trade says that measures have already been taken in accordance with the relevant fire safety requirements, the standards or facilities adopted by different KEs may not necessarily be consistent; besides, it may just be possible that the facilities they adopt are not up to the required standards. So, without a standardized set of measures, the safety of the consumers just cannot be protected.

However, it is indeed pleasing to note that the trade has been exceptionally concerned about the Bill. The representatives of the trade have participated fully in the entire deliberation process and, in addition to attending the hearings, actively put forward suggestions to the Government and the Council for consideration, thereby providing more room for discussion for this complicated Bill. In addition, thanks to active industry participation to reflect operational hardships, the Bills Committee could finally persuade the Government to take

into account more of the hardships confronting the trade and introduce amendments to the Bill accordingly. For instance, as a means to minimize the financial impact on them, KEs are allowed to implement the revised fire and building safety measures in phases; besides, a transitional period will also be granted to allow them sufficient time to meet the prescribed fire safety, building safety and public safety requirements. From this we can see that the participation of the trade is indeed of great help to the Bills Committee in scrutinizing the Bill.

Concerning the proposed exemption criteria for karaoke activities, the Government had originally set the threshold at three rooms. The DAB questioned the Government's argument for requiring establishments with more than three rooms to apply for a licence. If a club with four rooms used for karaoke activities does not have any winding long corridor but many fire exits, it should be able to address the fire risk adequately. Why then must the Bill rigidly require large-scale clubs of such kind to apply for a licence? The DAB has raised objection to this rigid requirement of the Bill. In the end, the Government accepted our view and agreed to add new clause 3(1A) to consider granting individual establishments not within the scope of exempted KEs exemption from application for permits or licences on basis of their individual merits.

As regards the requirements relating to the applicants for permits to operate KEs, the DAB holds that there should not be excessive restrictions. Since karaoke activities are a kind of popular and decent entertainment, the Government should not impose excessively stringent requirements on the applicants in much the same way as it controls vice business, gambling or drugs. For KEs offering lawful entertainment activities, applicants should be required to meet only some minimum requirements to be granted a licence to operate karaoke activities in appropriate premises. If the public interest should be included as one consideration for approving licence applications, the licensing authority would be conferred with unlimited power. That way, investors are unable to predict the result of their applications and thus cannot make any investment plans. This will certainly impact on the confidence of investors. The so-called "unscrupulous" KEs are in fact those with operational problems, which is quite common in other trades as well. The Government should not indiscriminately impose stringent requirements on them. For these reasons, the DAB opposes the requirement under clause 5(3)(c) that the grant and issue of permits or licences is not contrary to the public interest. We have proposed to

limit the scope of "public interest" to fire safety, building safety and public safety requirements. Upon considering the relevant views, the Government has eventually agreed to delete the clause. The DAB finds this an appropriate move of the Government.

During the course of scrutinizing the Bill provisions, the DAB identified many cases in which the executive has tried to facilitate enforcement by expanding excessively the power of the enforcement agency concerned. The DAB will deal with the relevant clauses very carefully. We consider it necessary to formulate policies in this regard because we can also see the problems, yet at the same time we also hold that the terms of reference and power required to implement the relevant policies must be weighed very carefully. We know that it is not the wish of the public to stifle the development of the karaoke trade or to see one kind of their entertainment activities being subject to stringent control. So, excessive powers or restrictions are indeed unnecessary. The power conferred by the regulatory regime on the Government must be reasonable and not seek to overkill; otherwise, the enforcement agencies will just be provided with excessively high and great powers. Hence, we consider clause 13(b)(iii), which empowers the Administration to seize and remove for examination a range of things in KEs, a sign showing that the Administration is asking for excessive power. Under this clause, public officers may seize properties without warrant. We consider this provision unacceptable and have questioned strongly the need for the clause at the meetings of the Bills Committee. In the end, the Government agreed to move an amendment to the effect that the power of seizure of enforcement agencies could only be exercised under a warrant issued by the Judiciary.

Further still, in seeking to facilitate the exercise of powers by enforcement agencies, care must be taken at the same time to pay due respect to the right of the public to own private properties and strive to minimize the loss caused by maladministration to investors. While it is perfectly fine to empower the Administration to seize and remove for examination the relevant properties for investigation and prosecution purposes, we should not allow the enforcement agencies to hold the seized properties in detention indefinitely without specifying clearly the time required for return of such seized properties. Hence, the DAB has drafted a proposed amendment to specify in the Bill the time required for the return of the seized properties. The Government has questioned the need for such a provision on the grounds that it is an administrative practice of the Government to return seized articles not required for prosecution purposes. But

then, we have noted that in other ordinances enforced in Hong Kong, such as the section on "inspection and other powers" under the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance, there are indeed provisions requiring the return of seized properties after a period of six months. The DAB therefore holds that it is necessary to prescribe a time required for the return of seized properties, bearing in mind that the lack of transparency of the Government's so-called administrative practice. In the end, the Government accepted the DAB's proposal and agreed to add a new subclause (4) to clause 13 to provide for the return of seized articles within six months from the date of seizure, if no prosecution action is instituted.

Besides, the DAB also holds that the operators affected by a closure order should be given clear instructions, so that they can promptly take actions to effect the discharge of the relevant closure order. In the event that the licensing authority is not satisfied with the remedial works carried out in respect of the KEs, if the licensing authority just rejects the requests for the discharge of closure orders submitted by the operators concerned without giving any explanation or instruction, the operators will be at a loss as to what they should do next. If the relevant closure order should remain effective for one more day, the operators concerned would lose one more day's business and thus incur greater financial losses. So, there is indeed a need for the Administration to issue clear and precise notices of remedial works. The Government has accepted our suggestion in this respect and agreed to add new clause 15(5) to the Bill. Under the proposed new clause, if the licensing authority is not satisfied with the remedial measures taken by the operators of the KEs in question in the light of the closure orders issued, it should notify the operators of any of the uncompleted remedial works.

Lastly, I hereby support the passage of the Bill and the relevant proposed amendments on behalf of the DAB. The DAB should also like to take this opportunity to urge the Government to keep a close watch on the cyber cafes which have become increasingly popular in recent years. Like KEs, cyber cafes have already become a major mode of consumption among young persons. At present, the problems in relation to the environment of cyber cafes are similar to that of KEs, such as fire safety, health safety, and so on. As the saying goes, "prevention is better than cure". The recent tragic fire incident at a cyber cafe in Beijing should have sounded the alarm. Does the Administration not need to issue any guidance on the environment of cyber cafes? Or should it subject the cyber cafes to the existing relevant legislation? I believe these questions are

worth in-depth study by the Administration. The Government should respond expeditiously to prevent any further cases of people being killed in closed cubicles.

I so submit. Thank you, Madam President.

**MR TOMMY CHEUNG** (in Cantonese): Madam President, the Security Bureau submitted the blue bill on Karaoke Establishments Bill to the Council in 2001 to propose regulating KEs. The proposed measures contained in the first draft of the Bill were extremely harsh. Given that the economic situation was so critical then, such new proposals would certainly add gravely to the hardships facing the karaoke trade.

According to the first draft of the Bill, KEs have to technically alter their construction plans in the light of the fire safety requirements. Given that the operators have invested heavily in the fixture and decorations inside the KEs, and that they have signed long-term leases with the landowners concerned, changing substantially the plans of the premises will add tremendously to their financial burden.

The Bill proposes to implement a licensing system for KEs; but then, no other places in this world have imposed control measures on KEs as stringent as those proposed in the Bill. Karaoke activities are also very popular in the United Kingdom, Singapore, Japan and Taiwan, yet none have specifically formulated any legislation to subject KEs to statutory control.

To comment on the Bill, I should like to speak on it as a whole first, to be followed by the respective opinions of the Liberal Party and the karaoke trade on individual clauses.

First of all, the background to the Administration's decision to subject KEs to statutory control is the major fire at the Top One Karaoke in 1997 which caused the death of 17 persons. But then, there had never been any similar major fire in the 10-odd years prior to that incident, nor have there been any similar ones over the past five years since it took place. From this we can see that the major fire at the Top One Karaoke was a rare incident. Could a piece of legislation prevent those people who intentionally seek to cause havoc from committing the crime concerned? I do not think so.



After the major fire tragedy, the immediate emotional response of the public was to urge the Government to subject KEs to some form of control. However, fire safety, which was the fundamental issue of the incident, had been overlooked. Actually, the karaoke trade has already adopted measures to improve the fire safety of KEs shortly after the incident. For this reason, it is unfair to the operators of KEs that the Administration has to subject the entire trade to all sorts of control just because of one single case, the fire tragedy at the Top One Karaoke.

Moreover, while the original legislative intent of the Bill is to protect the safety of consumers by requiring KEs to meet certain fire safety requirements, the Administration has modelled the clauses of the Bill on the harshest provisions under the existing legislation dealing with vice activities, illegal gambling and dangerous drugs. So, the Karaoke Establishments Bill can be described as a dish of "fried chop suey" made up of ingredients snatched many different pieces of legislation. What is more, the harshness of the provisions has exceeded tremendously all fire safety requirements.

The scrutiny of the Karaoke Establishments Bill has taken 18 months and the deliberation process was indeed very tough. An Honourable colleague of ours, Mr Andrew WONG, has made it clear that he would vote against the Second Reading of the Bill. Mr WONG is not in the Chamber now, I wonder if he will cast a negative vote later. Actually, I also wish to vote against the Second Reading of the Bill, only that we cannot secure enough negative votes. It would be very unfair to the karaoke trade if I should vote against the Bill without putting forward any amendments, because I just could not negative the Bill this way. Without any choices, I could only do my best to examine the Bill, with a view to ensuring the contents of the Bill as close to the original legislative intent as possible, which is to ensure compliance with fire safety and building safety requirements by KEs.

When the blue bill was first published in the Gazette, strong objection was raised by the karaoke trade. This is because operators have to invest substantial capital in their KEs, any additional remedial works to the internal layout of the KEs will cost money and thus hamper significantly the trade's investment incentive. While I have lobbied operators for many times and urged them to put the overall public interest in the first place, the Director of Buildings has also undertaken to help individual KEs to alter their plans to facilitate the

implementation of remedial works to meet the statutory requirements. In the end, the trade has accepted, albeit with enormous reluctance, the technical requirements set out in the Bill and taken measures to gradually improve the fire safety and building safety of KEs to meet the required standards prescribed in the Bill. Today, it is very safe for members of the public to enjoy singing in KEs.

Now, I should like to speak on the deliberations on various aspects of the Bill.

On the issue of "public interest", just now two Honourable colleagues have already spoken on it. The Liberal Party has repeatedly raised strong objection to the incorporation of the "public interest" principle into the Bill. Clause 5(3)(c) authorizes the Administration to determine whether or not to grant or issue permits or licences to KEs on the grounds of "public interest". Given that the meaning of "public interest" is too extensive and not confined to fire safety, the Director of Food and Environmental Hygiene and the Secretary for Home Affairs will be given excessive discretion, which may give rise to power abuse. In view of the full support Honourable colleagues have given to my view, the Security Bureau will move an amendment at the Committee stage to delete this clause. I consider this quick response of the Bureau to our view reasonable.

The Liberal Party also welcomes the Administration's consequential amendment proposed in connection with clause 5(3)(c) to delete clause 10(v) from the Bill. Under clause 10(v), the licensing authority is empowered to revoke or suspend a permit or licence if he is of the view that the KE in question has "on any occasion" since the date on which the permit or licence was issued operated in a manner "contrary to the public interest". I am not the only person considering this clause a cause for concern, other members of the Bills Committee are also concerned that the clause may cause the power of the licensing authority to expand without limits.

Clause 12 also contains provisions related to the "public interest". During the final stage of the deliberation process, the Administration decided to replace the reference to "public interest" with "the safety of persons using a karaoke establishment". This amendment can enable the operators lodging an appeal against the decision of non-renewal of permit or licence to be treated in a more reasonable manner.

I wish to thank the Government on behalf of the karaoke trade for introducing an amendment to extend the effective period of permits and licences from 12 months to 24 months after taking into account the merits of such an extension, including facilitating the operation of the trade, lowering the operating costs for the licensing authority, and so on.

Having said that, however, I must mention the grave concern expressed by a number of Honourable colleagues and me over the provision under clause 10(iv), which empowers the licensing authority to revoke or suspend the licences of KEs on the grounds that the KEs concerned are no longer located in an area suitable for the operation of KEs. I have reflected to the Administration that before applying for a licence, operators will ensure that the KEs will be in harmony with the environment in the vicinity. However, if, during the effective period of their licences, there should be any changes in the environment outside the KEs, say, the Administration might approve the establishment of a home for the aged, kindergarten, and so on, the operators just could do nothing about them. It is certainly very unfair to the operators if their licences are revoked under such circumstances, and their huge investments will just go "down the ditch". To allay the trade's worries, I hope the Secretary for Security will give an undertaking to the Council that the Administration will exercise its power to revoke licences of KEs on the grounds that the KEs concerned are no longer located in an area suitable for the operation of KEs only in the extreme and rarest circumstances.

I should also like to take this opportunity to remind the Administration that it must define clearly in the Guide for Application for KEs the term "*bona fide*" restaurants and explain clearly that "*bona fide*" restaurants may apply for exemption from applying for licences, so that "*bona fide*" restaurants will not be subject to another aspect of regulation.

Nevertheless, the Liberal Party still considers that only the closed karaoke boxes, which are KEs composed of very small and closed cubicles, should be subject to the Bill. I am saying that only the karaoke boxes with over 30 to 40 closed cubicles should be considered as KEs. Under clause 3(1)(a), the definition of KEs is very loose: any premises with three rooms occupying a total floor area of more than 30 sq m will be considered as KEs and must be subject to statutory control. At present, many discos, lounges and even clubs have made available a few small rooms to cater for the needs of consumers. Under the Bill, these establishments will very easily be considered as KEs and required to apply for a KE licence, thereby adding to their operation difficulties.

These clubs and lounges are not the targets of the Bill. I expect that after the Bill is brought into effect, disputes will arise between the licensing authority and applicants over the definition of KE. Even though the Bill has already exempted the certified clubs from applying for a KE licence, I still hope that the licensing authority can leniently and flexibly handle the licence applications lodged by establishments with karaoke facilities that are not dangerous.

Apart from that, the Liberal Party opposes strongly clauses 13(i) and (ii) of the Bill, which empowers enforcement officers to seize the apparatus and equipment of KEs, as this Bill should be targeting at issues like fire safety, building safety, and so on, rather than serious crimes in connection with vice activities, illegal gambling and dangerous drugs. Even if the enforcement officers suspect certain KEs of having failed various safety requirements, they still do not have the power to and should not remove the operators' business tools, such as large television sets, speakers, microphones and sofas, to paralyze the daily operation of the KEs completely.

Now that the Administration has refused to remove that harsh clause, I must demand the government official to give a clear undertaking to the Council that enforcement officers will only seize the properties relevant to proving the alleged offences on power of warrants issued by the Court, and that, instead of exercising the power of seizure, the enforcement officers will take photographs of the business equipment and particularly the expensive apparatus as far as possible to minimize the potential losses caused to the operators.

I am also concerned about clause 19 of the Bill, which requires operators to produce the documents or information relating to their KEs. I consider this provision irrelevant to fire safety. But then, I have learnt during the process of deliberation that the Court would apply the proportionality test to ensure that the value of the goods or property to be seized will not have a punitive effect far out of the proportion to the gravity of the offence committed, and my worry was alleviated a little bit. Besides, the Administration has also agreed finally to provide for the return of seized articles within six months; this should be helpful to alleviating the trade's concern.

Similar to the case of food establishment licences, under clauses 14 and 15 of the Bill, the licensing authority is empowered to direct remedial measures to be taken in respect of any KEs. If the KEs concerned fail to comply with its instruction, the licensing authority may apply to the District Court for an order to

effect the closure and cessation of the use of the premises as KEs. This power is a time bomb threatening the operation of the trade. As we all know, during the period of closure, the operators of the KEs concerned still have to meet the huge expenses on rentals and employees' wages.

At the requests made by Honourable colleagues and me, the Security Bureau has agreed to introduce an amendment to empower the Court to order a partial closure of the KEs concerned, instead of a full closure. In addition, the Administration has also agreed at the last stage to set a 28-day limit for the effective period of the closure order, so as to prevent KEs from being closed down indefinitely and incurring huge losses due to the delayed actions of the licensing authority.

I would like to supplement some information on how members of the karaoke trade have striven for their rights under the Karaoke Establishments (Licensing) Regulation. The original fire safety requirements prescribed by the Administration were very harsh. Such harsh requirements include a minimum width of 1.2 m for all corridors leading to exits, one-hour fire resistance internal walls, and so on. Thanks to the persistent efforts made by the trade, the Administration has now given way and agreed to reduce the minimum width of corridors to 1.05 m. In view of the unfavourable economic situation, the trade finally finds the result satisfactory.

To conclude my speech today, I should like to raise one point. Those people who are concerned with the economic prospects of Hong Kong have recently talked about how the local community economy could be developed on a number of occasions. Karaoke is imported from Japan and is a typically Japanese-style entertainment. Upon introduction into Hong Kong in the mid-1980s, karaoke soon became popular among the people of Hong Kong and has gradually evolved into a kind of economic activities of the local community. With karaoke becoming more popular, the public can enjoy this healthy entertainment at very low prices.

In fact, the Council has already debated a motion on urging the Government to create fewer obstacles in the business environment by avoiding making unnecessary laws. It was until very recently that removing the business obstacles in Hong Kong has become a pet subject frequently mentioned by the Chief Secretary for Administration and the Financial Secretary. Nevertheless, when it comes to the actual implementation of the relevant policies, the actual

situation and the major policy objective are just running away from each other in opposite directions.

In view of the Government's intention to regulate KEs by legislative means, the trade set up the Karaoke Requirements Concern Group in 1998. While over 200 KEs were represented by the Concern Group when it was first set up, most of the KEs have by now left the scene and only a few dozens of them are remaining in business. Investors from Japan and Taiwan have also indicated that they are not so interested in investing in Hong Kong as before and would probably "withdraw" as well.

Madam President, I would like to take this opportunity to thank the Honourable Members who have participated in scrutinizing the Bill for the understanding they have shown to the trade. I am glad that even though they had first mistaken me for trying to delay the deliberation process, members of the Bills Committee eventually realized that I was not making point-blank criticisms and subsequently joined me to urge the Government to introduce more reasonable amendments to the Bill. Last but not least, I must also mention the karaoke trade. As pointed out by the two Members who have spoken earlier, the karaoke trade is the only trade whose representatives have attended all the meetings throughout the deliberation process from the first minute to the last.

I just hope the impact of this Bill on the trade will not be too immense. I also hope that the trade can rise up to the present challenge and overcome and ride this difficult period out as soon as possible.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the Karaoke Establishments Bill (the Bill) was tabled before the Legislative Council for First and Second Readings on 7 February 2001. I would like to thank the Honourable James TO and other members of the Bills Committee for their detailed study of the Bill and relevant issues. Through the 29 meetings of the

Bills Committee, Members have made a number of valuable suggestions. After some thorough discussions, we have obtained the support of the Bills Committee for the Bill and for a number of amendments proposed. I will move some amendments at the Committee stage and explain on them.

The Bill seeks to improve fire safety, building safety and public safety of karaoke establishments (KEs) by way of a licensing system. The Bill embodies the second government strategy mentioned by me in the Second Reading debate of the Fire Safety (Buildings) Bill, that is, to lay down fire safety requirements in accordance with the nature, use and other factors of the premises to enhance fire safety standards and to bring them under the control of a licensing system to enhance protection of public safety.

At present, there is no specific control of KEs, other than some general requirements applicable to the premises in which they are located. For example, since some of the KEs also serve food or are attached to clubs or hotels, they are subject to varied degrees of regulation, if the karaoke business is conducted:

- (a) in a place licensed as a general restaurant or a light refreshment restaurant under the Public Health and Municipal Services Ordinance, or is operated with a liquor licence under the Dutiable Commodities (Liquor) Regulations; or
- (b) within a clubhouse certified under the Clubs (Safety of Premises) Ordinance, or within a hotel or guesthouse licensed under the Hotel and Guesthouse Accommodation Ordinance.

If a KE does not operate as any of the above, it is generally not regulated by any ordinance, or required to install facilities for fire safety, building safety or public safety. It can, nevertheless, conduct business for public entertainment of this nature with a business registration certificate.

Without proper fire safety construction and installations, the risk of fire in a KE cannot be taken slightly in view of the unique characteristics of its operation. General alertness of the customers may be diminished by the consumption of alcoholic drinks and loud music inside the premises. These premises are often partitioned into small cubicles and accessed through long and narrow passages. Such special layout poses an obstacle to escape in case of fire. General fire safety provisions cannot adequately address the fire risk associated

with the special closed-cubicle layout and unique manner of operation of most KEs. A set of prescribed minimum standards stipulated through a licensing system with legal effect to safeguard fire and public safety in KEs is therefore essential.

It was thought the drafting of the Bill was due to a fire that took place in a karaoke in 1997, which was a case of arson. I think it would be too sensitive to conclude that a piece of legislation to regulate KEs is the result of a single fire incident. Nevertheless, I wish to point out that the fire did expose the inadequacy of fire safety measures in a karaoke to protect patrons in case of fire, thus, a large number of casualties. The drafting of the Bill seeks to prevent the recurrence of a similar tragedy. One such tragic case is too many. As I said a moment ago, prevention is better than cure. The premise is obviously that fires be prevented. Even if a fire does break out, it is important that the number of casualties be reduced to the minimum, irrespective of the cause of the fire. This is exactly the object of the Bill.

We propose that premises providing karaoke facilities, whether they are attached to restaurants or other licensed premises, should be brought under the regulation of a licensing system implemented by the Administration. During the scrutiny process, the Bills Committee pointed out that the definition of "karaoke establishment" seemed to be so wide as to include premises not intended by the legislation. After some deliberations, we reached a consensus with the Bills Committee to narrow the scope of the Bill. I will explain the details of the relevant amendment later at the Committee stage. There was a provision regarding "*bona fide* restaurants" (that is, those restaurants with an aggregate floor area of all karaoke rooms not exceeding 30% of the total seating area and having no more than one karaoke room per 100 sq m in the seating area). Though it has been proposed to delete the provision, I can make the undertaking that these "*bona fide* restaurants" will be able to apply under the new provisions to the licensing authority for exemption. Under normal circumstances, "*bona fide* restaurants" will be granted exemptions.

During the discussions of the Bills Committee, Members were particularly concerned about considerations regarding the suitability of the place and area of the proposed operation of KEs under clause 5(3)(b). I would like to point out that inserting the two considerations was meant to ensure the safety of the customers of the KEs and of the people in the vicinity. Hence, the place must be suitable for the operation of a KE. For example, in relation to fire safety, an



industrial building is not a suitable place. Nor is Level 4, or below, of any basement. The draft Karaoke Establishments (Licensing) Regulations contain a series of provisions which state in detail in terms of fire safety, building safety and public safety to help determine the suitability of a place for operation as a KE. The definition of a "suitable area" is related to the neighbourhood of a KE rather than the premises of the KE itself.

Another concern of the Bills Committee relates to considerations about "public interest". The term "public interest" appears in several places in the Bill. Indeed, references to "public interest" have been found in a number of licensing systems, such as the Amusement Games Centres Ordinance. The Bills Committee considered the reference to "public interest" rather vague and thought that it might give the licensing authority excessive powers. Thus, it suggested that the scope of consideration be narrowed. We have considered the comments of the Bills Committee carefully. After balancing the need to protect public interest and to facilitate the industry, we have agreed to suitably narrow the reference to "public interest", without prejudice to public safety. I will explain the amendments in detail at the Committee stage later. I wish to stress that consideration about public interest is a protection for the community as a whole. We have agreed to narrow the scope of consideration in the Bill by the licensing authority after careful discussions with the Bills Committee and having due regard to the nature of KEs. Hence, this treatment cannot be referenced as a precedent.

One more factor that has to be considered in issuing a licence or permit is that the applicant must be a fit and proper person to operate a KE. Like "public interest", similar requirements are commonly seen in other licensing systems. Some people held the view that most KEs have obtained liquor licences and have proved that the applicants are fit and proper persons before they are granted the liquor licences. In addition, the criteria for a "fit and proper person" may be different under different circumstances. Thus, we have decided to retain requirements in this regard to provide more comprehensive protection for the safety of the public.

Other than considerations relating to the issue of a licence, a focus of our discussions was the arrangements for the appointment of an authorized person, referred to in clause 7 of the Bill concerning a body corporate or a partnership. The Bills Committee has questioned whether, under the arrangements, a licensee is a body corporate or a partnership or an authorized person as specified in

clause 7. The Bills Committee is concerned that if the authorized person is the licensee and if he or she dies or disappears, the relevant KE may have to cease operation immediately until it can find another authorized person to apply for a relevant licence or permit. We have explained to the Bills Committee that under clause 7, the licensee is still the relevant body corporate or partnership, not the authorized person.

Members have asked if an authorized person dies or disappears, whether the KE can carry on the business before finding a "substitute". To facilitate the industry, we will specify in the licensing conditions that, when an authorized person dies or disappears, if the relevant body corporate or partnership informs the licensing authority of the change within 14 days from the date of change and appoints a new authorized person, the relevant KE may carry on the karaoke business without an authorized person and not be regarded as operating in contravention of the Bill, before a determination was made on the acceptance of the new authorized person.

Regarding enforcement, the Bills Committee has made a number of valuable suggestions, one of which is related to clauses 10(ii) and (iii) of the Bill. Some members thought they should be deleted but they held that an offence committed by a licensee for a breach of the provisions of the Bill of the licensing conditions should not lead to any action taken by the licensing authority specified under clauses 10(a) to (d), including the action to revoke, suspend, reform, refuse to renew or vary the conditions of a permit or licence. We think that any licensing system should have a suitable mechanism built in to give warning and to ensure compliance. The present clause 10 as presently drafted is fair and reasonable and we therefore think that it should be retained.

Moreover, members expressed the worry that clause 10(iv) might cause a KE to lose its licence only because of changes in the neighbourhood, such as the setting up of a school or kindergarten. I can promise members that the Administration will exercise this power under the Bill cautiously and vigilantly. It would only revoke the permit or licence of a KE on the basis that the KE is no longer located in an area suitable for the operation of KE in the extreme and rarest circumstances.

Some members considered the power of the licensing authority and the police to inspect KEs and to seize books and articles without a warrant excessive. To address the concern of members, we agree to introduce an amendment to state

clearly that the power of seizure will be exercised only on power of a warrant. I will explain the relevant Committee stage amendment later on.

As the Bill relates to public safety, some members thought the penalties stipulated by the Bill were too light. In response to members' concerns, we will raise the penalties as appropriate and I will explain the relevant amendment later.

Since the Bills Committee still has some worries, which are not suitable to be dealt with in the Bill, I will explain them here.

One such worry relates to the service of a notice on remedial works under clause 14(1), and notice of intention to apply for a closure order under clause 15(1) to be issued 24 hours before closure. Some members worried that if the two types of notices were served on persons other than the licensee, and the licensee could not come to learn about and deal with the notices in time, serious consequences may result, such as a closure of the KE. In fact, it is stated in clauses 14(2)(a) and 15(1)(a) that the relevant notices are required to be served on the person "being the operator, keeper, manager or otherwise having control of the KE". Thus, we would seek to confirm that junior staff such as a cleaner, will not be deemed to be a person "being the operator, keeper, manager or otherwise having control of the KE". The Government will not serve the notices mentioned on persons other than those holding the prescribed office.

Moreover, I will be explaining a point in relation to clause 10(ia) at the Committee stage.

Lastly, I wish to express my heartfelt gratitude to the Bills Committee again for their efforts in scrutinizing the Bill in the most comprehensive and meticulous manner. Understandably, some members worried about the possibility of generating too heavy a burden on the karaoke trade when the Bill is passed. Indeed, the Government has considered the impact on the trade in drafting the Bill. The Government did commission a consultant to assess the impact of the regulation imposed on the trade and inserted transitional provisions in the Bill. We have endeavoured to strike a balance between safeguarding public safety and facilitating the industry. After the passing of the Bill, the licensing authority will make guidelines to help industry compliance with the new law. The Food and Environmental Hygiene Department, as an executive arm of the Administration, will provide information and consultation on licence application for KE permit applicants at its present resource centres. I sincerely

hope the karaoke trade may prosper and at the same time the public may enjoy singing along in a safe environment.

To make up for the possible impact on the karaoke business, I will accept Mr TO's invitation to join all Members and colleagues from the Fire Services Department (they sing well) on the public gallery to sing at a KE after the passage of the Bill. The activity will not be financed from the public purse of the Security Bureau.

Madam President, I hope Members will support the Bill and the various amendments I will be moving at the Committee stage.

I beg to move. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Karaoke Establishments Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Karaoke Establishments Bill.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

**KARAOKE ESTABLISHMENTS BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Karaoke Establishments Bill.

**CLERK** (in Cantonese): Clauses 1, 6, 17 and 21.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 2 to 5, 7 to 16, 18, 19 and 20.

**SECRETARY FOR SECURITY** (in Cantonese): I move the amendments to clauses 2 to 5, 7 to 16, 18, 19 and 20, as set out in the paper circularized to Members.

Clause 3 of the Bill seeks to define the scope of applicability of the Bill. In the course of deliberations, the Bills Committee was particularly concerned that the definition of "karaoke establishment" might be too wide, thus catching premises not covered by the legislative intent. We have studied whether the definition of KE could be amended and narrowed, such as deleting "whether or not the trade or business is carried on exclusively or in association or connection with any other trade or business activity" and adding references to "small cubicles" or "long and narrow passages". However, these approaches may cause ambiguities and loopholes and may handicap the implementation of an

effective licensing system. We may even have to employ precise legal language to enumerate countless possible partitioning combinations which may be erected inside a KE, which is therefore quite difficult to achieve. After reconsidering the issue, we propose to narrow the scope of applicability of the Bill by extending the proposed exemption criteria to all sorts of premises, which is originally proposed for certified clubs. Even in case of fire, because the number of rooms used for karaoke activities in these premises does not exceed three and the aggregate floor area of the karaoke rooms is not more than 30 sq m, the unacceptable risk is minimal. Furthermore, we also propose to delete the existing clauses 3(1)(a) and (b), as there are very few rooms used for karaoke activities in these premises, therefore we would not have enough reasons to categorize them as specific KE and grant them exemption. Moreover, in order to let the trade have a clearer picture of the factors the licensing authority may consider in the course of granting an exemption order, we propose to amend clause 3(1)(e) to stipulate that the licensing authority must be satisfied that the safety of persons using a KE will not be adversely affected, and put it under new clause 3(1A). Since the new clause 3(1A) has added the reference to "the percentage of the area allocated for karaoke activity", which allows the licensing authority to consider granting an exemption order on this basis, it would be sufficient to deal with the case of restaurants, therefore we propose to delete clause 3(1)(d). However, just as I have pledged in my speech at the resumption of the Second Reading, it will not affect the exemption application of "*bona fide*" restaurants.

Under clause 4 of the Bill, any person who operates a KE without a permit or licence will be prohibited, and it also provides for penalties. Some Members expressed the concern that since the provisions of the Bill involved public safety, the proposed level of fine might be too low to achieve deterrent effect. We accepted the view of Members and would raise the level of fine. At the same time, clauses 16(5) and 20(4) would be amended accordingly. We would also accept Members' view on clause 4(4), that karaoke activities conducted in a separate household unit would not be subject to the Bill. Therefore, we propose to delete clause 4(4), so that any KE falling within the definition and not eligible for exemption under clause 3 will have to apply for a permit or licence.

Clause 5 deals with the application for the grant and issue of permits and licences. Clause 5(3)(c) requires that in all the circumstances the grant of the permit or the issue of the licence is not contrary to the public interest. Clause 5(3)(c) gives the licensing authority power so that should circumstances so

warrant, the licensing authority, in considering whether or not to issue a licence or permit, would not be precluded from considering factors other than fire safety, building safety and public safety for protection of the wider interest of the community at large. Members expressed strong views and proposed that the reference to "public interest" be replaced by reference to "fire safety, building safety and public safety". We are of the view that if we confine "public interest" in clause 5(3)(c) to such aspects as fire safety, building safety and public safety will only repeat the relevant requirements laid down in the draft regulation in pursuance of clause 5(3)(b)(i). In order to avoid such repetition, we propose to delete clause 5(3)(c), and for the same reason, we also propose to delete clause 10(v).

Clause 5(6) empowers the licensing authority to consider the views of persons whose place of residence or employment is in the immediate vicinity of the place of the proposed operation of a KE. Members were of the view that since most KEs would have the liquor licence, therefore the views of local residents should have been taken into account in the course of granting the liquor licence. Moreover, some Members worried of how the licensing authority would consider the collected views. Since the statutory power of the licensing authority of not issuing a permit or licence according to clause 5(3)(b) of the Bill whenever it deems necessary would not be expanded, diminished or affected by virtue of clause 5(6) of the Bill, therefore we have no objection to deleting clause 5(6).

Another amendment to clause 5 is to extend the validity period of the permit or licence under subclause (8) from 12 to 24 months, with a view to facilitating the trade and reducing the operational cost of the licensing authority. This amendment is made in response to the request of Members. A consequential amendment will also be made to clause 8(8). In the meantime, new clause 5(9) also stipulates that a permit to operate a KE shall cease to have effect when the relevant licence or certificate of compliance is no longer in force.

Clause 7 stipulates that when a body corporate or a partnership wishes to apply for a permit or a licence, a physical person should be authorized as the representative. In order to lay down the mechanism of substitution of the representative clearly and to check whether that representative is a fit and proper person to operate the KE under clause 5(3), we propose to add new clauses 7(3) and (4).

Clause 10 seeks to give the licensing authority power to take appropriate actions to deal with various breaches of the Bill. In order to specify the representative authorized by virtue of clause 7 to be included in clause 10, we propose to add new subclause (iia). To allay the concerns of the Bills Committee, I would like to expressly state that the addition of subclause (iia) is to enable the licensing authority to take appropriate action under clause 10(a) to (d) of the Bill on ground of conviction of an offence under the Bill or any regulation made under clause 20 by the grantee, licensee or authorized representative (where the grantee or licensee is a body corporate or partnership). The offence referred therein must be relevant, that is, one that has been committed in relation to the operation of the KE in question.

Clause 12 stipulates that any person may, within 28 days from date of service of notice of the decision, appeal to the Administrative Appeals Board. Given that some Members considered the existing clause 12(2) unable to specify whether the decision made by the licensing authority was to be suspended before the expiration of the period of appeal and no appeal was made during the period, and whether the reference to "public interest" had given the licensing authority excessive discretionary power, we propose to delete clause 12(2) and add a new clause 12A, which I will move later, in order to state that the decision of the licensing authority will not come into force until the expiration of the period of appeal, or if an appeal against the decision is made, until the appeal is ended, unless the licensing authority considers and declares that the safety of persons using a KE will be adversely affected if the operation of a decision is suspended.

Clause 13 seeks to give the licensing authority and the police the power to enter and inspect a KE and seize articles. After discussions by the Bills Committee, we accepted the views of Members and clearly state in clause 13 that the power provided under clause 13 may be exercised only for purposes of ensuring compliance with the provisions of this Bill and the conditions imposed in respect of any permit or licence. In order to dispel the worries of Members, we propose to add new clauses 13(3) and (4) stipulate that the evidence of the commission of an offence against the Bill could only be seized and removed with warrant, and the articles seized should be returned if no prosecution is instituted within six months.

Clause 14 empowers the licensing authority to direct remedial measures to be taken in respect of a KE. Members were of the opinion that the power conferred on the licensing authority might be excessive, which might enable the



authority to direct remedial works other than directions made in the interest of compliance with the Bill and licensing conditions. We have explained that as the Bill would be implemented in phases, there might still be some KEs operating without licences during the first two years of implementation. Consequently, the licensing authority should be vested with the power of enforcing additional requirements other than the licensing conditions. Members accepted the explanation. After discussions, a consensus was reached between the Administration and Members that clause 14 would be amended by adding subclause (1A) to stipulate that if a KE had been granted a licence or permit, then the licensing authority could only give directions to ensure compliance with the licensing conditions and the Bill.

Clause 15 enables the licensing authority to apply to the District Court for an order to effect the closure of a KE. Since some parts of a KE against which a closure order has been issued might possibly be used for domestic purposes, Members are of the view that an express provision should be provided in the Bill to stipulate that the closure order would not preclude such domestic purposes and should not affect the use of public passage. We therefore propose the addition of subclause (1A). Furthermore, to address Members' concerns, we propose the amendment of clause 15(4)(a) and the addition of subclauses (5) to (8) to stipulate that the licensee affected may request the licensing authority to discharge the closure order. Under clause 15(4)(a), the licensing authority shall reply within 28 days. If the licensing authority rejects the request or fails to reply within 28 days, the person making the request may apply to the District Court for discharge of the order.

In order to clarify the defence provided under clause 16(2) will be available only to the authorized representative or an individual licensee appointed by virtue of clause 7, we propose to amend clause 16(2) to achieve this effect.

Clause 18 stipulates the means of service of notices and orders. The Bills Committee has discussed the issue concerning the service of notice of intention to apply for a closure order under clause 15(1)(a). Since Members were of the views that the matter might bring about a more serious consequence, therefore two of the modes of service specified under clause 18 should be adopted in parallel. We accepted the views of Members and propose to amend clause 18 in order to stipulate that a notice under clause 15(1) should be served by registered post and by leaving a copy with an adult occupier or posting a copy in a

prominent position of the premises concerned. The service of the copy of notice should be deemed to have effected on the day immediately following the day on which it was dispatched by registered post.

The other amendments that I have just moved are textual, technical or consequential in nature.

These amendments have been proposed after detailed discussions by the Bills Committee which also endorsed them. I hope Members will support the amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 2 (see Annex VI)**

**Clause 3 (see Annex VI)**

**Clause 4 (see Annex VI)**

**Clause 5 (see Annex VI)**

**Clause 7 (see Annex VI)**

**Clause 8 (see Annex VI)**

**Clause 9 (see Annex VI)**

**Clause 10 (see Annex VI)**

**Clause 11 (see Annex VI)**

**Clause 12 (see Annex VI)**

**Clause 13 (see Annex VI)**

**Clause 14 (see Annex VI)**

**Clause 15 (see Annex VI)**

**Clause 16 (see Annex VI)**

**Clause 18 (see Annex VI)**

**Clause 19 (see Annex VI)**

**Clause 20 (see Annex VI)**

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

**MR JAMES TO** (in Cantonese): Madam Chairman, the Bills Committee endorses the proposed amendments. I should like to speak briefly on one point which can be seen in the relevant records. Among the many provisions examined, we have indeed examined in painstakingly great detail the provisions on licensing matters contained in the Bill. I can say this Bill has been the most meticulously examined Bill in the past 10 years. I believe the experience we have gained this time, including the Committee stage amendments under discussion now, may serve as significant reference when we scrutinize any legislation on licensing matters in future, such as any possible government control over dance party, rave party, and so on; or even any other legislative amendments relating to licensing control. Certainly, the Secretary's responsibility is only the security aspect, but still I hope that the experience and insight gained can be summed up. Even though such experience and insight may not necessarily be applicable in future, the many different views discussed in great detail during the deliberation process, including the views on enforcement, can still be used as some form of significant reference for other Policy Bureaux.

**CHAIRMAN** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**CHAIRMAN** (in Cantonese): Secretary for Security, do you wish to speak again?

(The Secretary for Security indicated that she did not wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Security be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 2 to 5, 7 to 16, 18, 19 and 20 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): New clause 12A      Coming into force of decisions of  
licensing authority.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move that new clause 12A, as set out in the paper circularized to Members, be read the Second time.

New clause 12A is added consequential upon the deletion of clause 12(2) moved by me earlier, so as to stipulate that the decision of licensing authority shall not come into force until the expiration of the period for which an appeal against the decision may be made, or if there is an appeal, it will not come into force until the appeal is disposed of, unless the licensing authority is of the opinion that the safety of persons using a KE will be adversely affected if the operation of a decision is suspended.

This amendment has been proposed after detailed discussions by the Bills Committee which also endorsed it. I hope Members will support the passage of the amendment. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 12A be read the Second time.

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): New clause 12A.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move that new clause 12A be added to the Bill.

*Proposed addition*

**New clause 12A (see Annex VI)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 12A be added to the Bill.

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

**Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

**KARAOKE ESTABLISHMENTS BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the

Karaoke Establishments Bill

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Karaoke Establishments Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Karaoke Establishments Bill.

**MOTION**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Hong Kong Academy of Medicine Ordinance to approve the Hong Kong Academy of Medicine (Amendment) Regulation 2002.

**PROPOSED RESOLUTION UNDER THE HONG KONG ACADEMY OF MEDICINE ORDINANCE**

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese):  
Madam President, I move the resolution standing in my name on the Agenda.

The Hong Kong Academy of Medicine Ordinance was enacted on 1 August 1992 to establish the Hong Kong Academy of Medicine (the Academy) as a statutory body. Under section 12(k) of the Ordinance, the Academy may by regulation provide for the period for which a member of its Council may office. The making of such regulation is subject to the approval of both the Academy Fellows via a postal ballot and this Council.

At present, the period for which an Academy Council's member may office is provided for in regulation 9(3) and 9(4). Regulation 9(3) stipulates that no Fellow of the Academy shall serve on the Academy Council for a continuous period of more than eight years, provided that the years of service as an ex officio member shall not count. Meanwhile, regulation 9(4) stipulates that no Fellow shall serve more than 12 years on the Academy Council during his lifetime, provided that the year of service of the immediate past President as a Council Member shall not count.

After a comprehensive review, the Academy Council believes that regulation 9(4) is sufficient to cover a Fellow's maximum tenure in the Academy Council, and there is no strong reason of discontinuing a Fellow's service at the end of the 8th year while he is allowed to serve a total of 12 years. Therefore, the Academy Council has proposed that regulation 9(3) be deleted.

The proposed Amendment Regulation has been approved by a postal ballot in accordance with section 12 of the Hong Kong Academy of Medicine Ordinance, which requires not less than one fifth of the Fellows to vote in the postal ballot, and two thirds of the voted Fellows are in favour of the Amendment Regulation. This resolution seeks this Council's approval of the Hong Kong Academy of Medicine (Amendment) Regulation 2002.

Madam President, I beg to move.



**The Secretary for Health, Welfare and Food moved the following motion:**

"That the Hong Kong Academy of Medicine (Amendment) Regulation 2002, made by the Hong Kong Academy of Medicine on 7 June 2002, be approved."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

**PROPOSED RESOLUTION UNDER ARTICLE 75 OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA**

**MR JASPER TSANG** (in Cantonese): Madam President, I move that the resolution under my name to amend the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (Rules of Procedure), as printed on the Agenda, be passed.

The first two proposed amendments put forward in the resolution are related to Rules 71 and 75 of the Rules of Procedure.

Rules 71(2) and 75(2) of the Rules of Procedure provide that the respective chairmen and deputy chairmen of the Finance Committee and House Committee shall hold office until the election of the chairmen and deputy chairmen of the committee in the Session next following that for which they were elected. Such provisions seem to imply that the elections may take place only after the commencement of the new Session.

On the other hand, the Finance Committee Procedure, Public Works Subcommittee Procedure and Establishment Subcommittee Procedure all provide that the election of the respective chairmen and deputy chairmen for the second or each subsequent Session in a Legislative Council term may take place at a meeting before the relevant Session commences.

To deal with this apparently contradictory situation, the Committee on Rules of Procedure has conducted a review and proposed to amend the Rules of Procedure to provide that:

- (a) the chairmen and deputy chairmen of the Finance Committee and House Committee shall hold office until the chairmen and deputy chairmen for the next Session are respectively elected in the new Session or, if the election is held before the new Session commences, they shall hold office until the commencement of that new Session; and
- (b) for the second or each subsequent Session of a Legislative Council term, the election of the chairmen and deputy chairmen of the Finance Committee and House Committee may take place at a meeting held before the relevant Session commences.

Madam President, the remaining three proposed amendments set out in the resolution are related to Rules 84 and 85 of the Rules of Procedure. These proposed amendments are put forward by the Committee on Members' Interests upon completing a review and have received the support of the Committee on Rules of Procedure.

The first sentence of Rule 84(1) specifies that a Member shall not vote upon any question, whether in the Council or in any committee or subcommittee, in which he has a direct pecuniary interest which is not subject to the three exceptions stated therein.

The second sentence of Rule 84(1) specifies that where there is such a direct pecuniary interest in a question to be voted on in the Council or a committee of the whole Council, the Member concerned shall withdraw therefrom when the vote is taken. Actually, if the relevant pecuniary interest is subject to the three exceptions stated in the first sentence, the Member concerned can participate in the voting rather than withdrawing from it. The Committee on Members' Interests considers that for clarity purposes, the second sentence should be amended by making a reference to the three exceptions specified. Moreover, to facilitate understanding, Rule 84(1) should be split into two subrules.

In addition, the Committee on Members' Interests has also noted that Rule 84 provides for two issues. While subrules (2) and (3) are concerned with the disclosure of pecuniary interests, the remaining subrules are concerned with the voting procedure where there is a pecuniary interest. The Committee on Members' Interests considers that, in the interest of clarity, these two issues should be regulated under two separate rules. It therefore proposes that subrule (2) be separated from Rule 84 and be re-drafted to become new Rule 83A. Furthermore, since the scope of the proposed new Rule 83A already covers that of Rule 84(3), it is therefore proposed that Rule 84(3) be deleted from the Rules of Procedure. The opportunity is also taken to propose textual amendments to both the English and Chinese versions of the new Rule 83A for enhanced clarity, and to propose consequential amendments to Rules 84(3A) and 85.

Madam President, I urge Honourable Members to support the resolution.

**Mr Jasper TSANG moved the following motion:**

"That the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended -

(a) in Rule 71 -

(i) in subrule (2), by repealing "the election of the chairman and deputy chairman of the committee in the session next following that for which they were elected" and substituting "the chairman and deputy chairman of the committee for the next session are respectively elected in that next session or, in case that election is held before that next session commences, until that commencement";

(ii) by adding -

"(2A) The election of the chairman and deputy chairman of the committee for the first session of a term shall take place at the first meeting of the committee in the session. For the second or each subsequent session of the term, the election may take place at a meeting held before that session commences.";

(b) in Rule 75 -

(i) in subrule (2), by repealing "the election of the chairman and deputy chairman of the committee in the session next following that for which they were elected" and substituting "the chairman and deputy chairman of the committee for the next session are respectively elected in that next session or, in case that election is held before that next session commences, until that commencement";

(ii) by adding -

"(2A) The election of the chairman and deputy chairman of the committee for the first session of a

term shall take place at the first meeting of the committee in the session. For the second or each subsequent session of the term, the election may take place at a meeting held before that session commences.";

- (c) by adding -

**"83A. Personal Pecuniary Interest to be Disclosed**

In the Council or in any committee or subcommittee, a Member shall not move any motion or amendment relating to a matter in which he has a pecuniary interest, whether direct or indirect, or speak on any such matter, except where he discloses the nature of that interest.";

- (d) in Rule 84 -

- (i) in the heading, by repealing "Personal Pecuniary Interest to be Disclosed" and substituting "Voting or Withdrawal in case of Direct Pecuniary Interest";

- (ii) by repealing subrule (1) and substituting -

"(1) In the Council or in any committee or subcommittee, a Member shall not vote upon any question in which he has a direct pecuniary interest except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or his vote is given on a matter of Government policy.

(1A) In the Council or a committee of the whole Council, a Member shall withdraw when a vote is taken on a question in which he has a direct pecuniary interest except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or his vote is given on a matter of Government policy.";

- (iii) by repealing subrules (2) and (3);

- (iv) in subrule (3A), by repealing "direct pecuniary interest under subrule (1)" and substituting "failure to withdraw as required by subrule (1A)";
- (e) in Rule 85, by repealing "or 84(1), (2) or (3) (Personal Pecuniary Interest to be Disclosed)" and substituting ", 83A (Personal Pecuniary Interest to be Disclosed) or 84(1) or (1A) (Voting or Withdrawal in case of Direct Pecuniary Interest)". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Jasper TSANG be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Jasper TSANG be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Two motions with no legislative effect. The speaking time limits are in accordance with the recommendations of the House Committee. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Report of the Sports Policy Review Team.

## **REPORT OF THE SPORTS POLICY REVIEW TEAM**

**MR IP KWOK-HIM** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, in my capacity as Chairman of the Panel on Home Affairs, I move that the Report of the Sports Policy Review Team (the Report) be debated.

Following the dissolution of the two Provisional Municipal Councils, the Home Affairs Bureau has assumed the responsibility for the allocation of government funding for sports development and promotion as well as co-ordinating the overall sports policy. In April 2001, a review team was set up by the Bureau to conduct a comprehensive review of the sports policy in Hong Kong. On 23 May 2002, a report entitled "Towards a More Sporting Future" was published by the review team for public consultation. The consultation period shall conclude by the end of July.

Insofar as sports development strategy is concerned, the overall objectives espoused in the Report are as follows: to develop a strong sporting culture and encourage people to adopt sport as part of an active lifestyle; to achieve greater excellence in sport by providing more support to our elite athletes; and to raise our international profile on sport with a view to gaining wider recognition and creating new opportunities for economic growth. The report has also outlined the direction for future sports policy in the following areas: public participation in sport, student sport, support for disabled athletes, venue planning and development, high performance sport, the administrative structure for sport, and public funding for sport.

The review team is of the opinion that there is a perceived overlap and lack of clarity in the delineation of responsibilities between the Leisure and Cultural

Services Department (LCSD) and the Hong Kong Sports Development Board (SDB). Generally speaking, there is absence of a clear central authority responsible for overall policy, planning, co-ordination and monitoring of sports development. The review team has therefore proposed that an over-arching Sports Commission be set up to advise on strategic policy planning and funding as well as to co-ordinate key activities in the sports sector. It is also proposed that the SDB be dissolved and high performance training be entrusted to a reconstituted Hong Kong Sports Institute (HKSI). It is also considered that the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) may take over from the SDB the latter's marketing and promotional functions.

THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the Chair.

A discussion on the Report was held between the Panel and the Home Affairs Bureau on 23 May 2002.

The Panel was in general supportive of the measures proposed in the Report to encourage wider participation in sport, provide more sporting opportunities for students, and offer better support to disabled athletics. However, some members opined that the Report has failed to propose specific proposals and measures to promote the long-term active development of the sporting culture.

While some members expressed reservations about the recommendation of dissolving the SDB and establishing the Sports Commission, a member opined that it was essential for the Administration to address the disputes arisen as a result of competition for limited funds by establishing a top-level body with substantial authority in allocation of resources to oversee sports development and related matters.

Insofar as promoting the culture of active participation in sports is concerned, a member proposed that the Administration should consider funding support for District Sports Associations (DSAs) and local communities to organize training programmes for student athletes. It was also suggested that schools should provide diversified physical education programmes and training to assist students in developing their sporting potentials.



Madam Deputy, it was also suggested by a member that public funding for high performance sports be separated from the total allocation of sports resources for general participation by the community. Furthermore, elite training programmes should incorporate areas of studies which would enable admission of such elite athletes to university education.

It was also suggested that proper financial support be given to retired elite athletes, particularly those who have made major achievements in the international sports arena. The Panel concurred with the Administration that more support be given to disabled athletes, and greater recognition be accorded disabled athletes who had performed outstandingly in major international competition events.

Some members suggested the Administration to plan sufficient public sporting venues and proper ancillary facilities with a view to promoting sports-for-all programmes through DSAs and community sports clubs.

A special meeting was held by the Panel on 22 June to listen to the views of 55 deputations on the Report.

While the deputations generally supported the Report proposal of promoting public participation in sports activities and provide students with more sporting opportunities, the majority of the deputations were of the opinion that district and school sports venues were insufficient. In order to genuinely promote sports activities, it was necessary for the Government to provide the public and schools with more venues of international standard for training and competition purposes. It was also suggested that the Government should work in collaboration with sports governing organizations (traditionally known as NSAs) or DSAs, or even entrust these associations to organize all community and school sports promotional activities.

Some deputations held the view that there was insufficient government support for disabled athletes. They therefore appealed to the Government to provide specially-designed sports facilities, encourage disabled athletes to take part in community sports activities, and promote volunteer recruitment programmes to help the organization of events.

It was generally felt by the deputations that there was a lack of venues in Hong Kong which meet international standards and, as a result, sports organizations were not given the right to host major international events. They

therefore suggested the Government to build international-standard competition and training grounds.

It was pointed out by some deputations that existing sports facilities had failed to meet the training and competition needs of various sports. They suggested that NSAs be consulted on their professional advice on the design of sports venues. It was also suggested that designated training venues be provided for each NSA.

Insofar as high performance sport is concerned, it was suggested that elite athletes be given more funding and more comprehensive support in such areas as academic, employment, sports medicine, sports science, and so on. It was also opined that the Government should not put excessive emphasis on "focus" items. Sufficient funding should be provided to "unpopular" sports items too.

On the issue of reviewing the administrative structure for sport, some deputations supported the establishment of the Sports Commission to replace the SDB in co-ordinating sports affairs in Hong Kong. It was however suggested that the Commission should operate as an independent organ with its own executive and decision-making power, so that it can effectively implement its policies on various sports and approve sport funding. At the same time, its membership should comprise representatives from various NSAs and SF&OC. Its structure should be maintained as streamlined as possible to save administrative costs and maintain its operational transparency. Training of elite athletes would be entrusted to the HKSI, the facilities of which should be upgraded.

The deputations were generally supportive of the Report's recommendation of setting up a single funding body. Some deputations suggested that funds should be allocated in accordance with the principle of fairness, instead of relying on the number of prizes won in determining funding to sports organizations. At the same time, the Government should render more support to sports organizations, including more funding, staff training, strengthened sports medicine and sports science, recruitment of full-time coaches, provision of training and competition venues, and so on. Some deputations also supported that a fund be set up to subsidize sports organizations to host international sports events in Hong Kong.

Madam Deputy, sports policy is a very important subject. The measures proposed in the Report have implications on various strata of society. I

earnestly hope that the Administration can listen to views of all sides so that it can come up with forward-looking and strategic policies for the development of sports in Hong Kong in the next five to 10 years.

With these remarks made as Chairman of the Panel on Homes Affairs, I beg to move.

Madam Deputy, with your permission, next I speak on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB).

The DAB is of the view that, to enable sports development in Hong Kong to move a big step forward, the administrative structure for sport must be smoothened in this review, and specific arrangements be made acceptable to all parties. In our opinion, the sports sector will find it easier to accept the arrangement of setting up a Sports Commission to co-ordinate sporting policies, dissolving the SDB, and retaining the HKSI for elite training. Furthermore, the Sports Commission must have decision-making power in sports development and actual power in overall funding allocation. Members of the Commission should comprise, in addition to members of the community, representatives from NSAs and DSAs, retired athletes and coaches.

The SF&OC should maintain its role of vetting and screening athletes representing Hong Kong to take part in international events. As it has always maintained a close relationship with NSAs, it can continue to play its promotional and publicity role. It can act as the planner, organizer and promoter for all international events and sports activities to be held in Hong Kong too. The task of allocating funds to NSAs should in future be taken over by the Home Affairs Bureau from the SDB. Furthermore, the LCSD should continue to play its role of promoting sports-for-all programmes, and work in collaboration with various NSAs and DSAs from time to time to stage various sports popularization activities. The DAB believes these arrangements will help the long-term development of local sport.

The DAB also hopes that the authorities can pay attention to the dismissal and retention problem facing SDB staff. The provision of a transitional period before the establishment of the Sports Commission can ensure that the SDB will continue to, in the interim, provide athletes with various forms of support and avoid affecting elite athletes taking part in overseas competitions.

As regards venue arrangements, the DAB agrees that it is necessary to construct a new 50 000-seat stadium in South East Kowloon and a new multi-purpose indoor arena in Lai Chi Kok, West Kowloon. The expeditious construction of major stadia is conducive to Hong Kong's fight for hosting major international sports events. These international events will in turn arouse public interest in sport, and help promote public participation in sports activities.

Nevertheless, the DAB has reservations about the demolition of the Hong Kong Stadium and Queen Elizabeth Stadium. Although the facilities of the Queen Elizabeth Stadium has shown signs of ageing, it is nonetheless a multi-purpose small stadium that can provide venues for inter-district selection events such as martial art competitions. In spite of the limitations of the Hong Kong Stadium in terms of both design and setting, it can still provide venues for international events of sports, such as rugby, a well-organized sport in Hong Kong. The demolition of these two venues will only increase pressure on other sports venues.

Madam Deputy, in this review, attention should be paid to elite training and increased sports opportunities for students, in addition to the administrative structure and venues for sport. Although our elite athletes have performed brilliantly in international events in recent years, we must inject additional resources into elite training in order to maintain their good performances. Therefore, additional resources should be deployed to improve the facilities of the HKSI to ensure that it can continue to serve as an important elite training base. In addition, technical support in such areas as sports science, sports medicine and on-the-spot support should be strengthened too. A separate mechanism should also be set up in local universities for enrolling brilliant athletes on degree programmes.

Athletes need support from all sides. Miss LEE Lai-shan made this remark when she snatched gold in the Olympics: "Hong Kong athletes are no rubbish". This precisely demonstrates the frustrations and discrimination met by Hong Kong athletes in the course of training. The DAB hopes that the new administrative structure for sport can write a new chapter for sports development in Hong Kong in such aspects as upgrading existing venue facilities, building more major arenas, strengthening elite training, and enhancing co-operation between schools and NSAs.

I so submit.

**Mr IP Kwok-him moved the following motion: (Translation)**

"That this Council notes the Report of the Sports Policy Review Team."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr IP Kwok-him be passed.

**MR TIMOTHY FOK** (in Cantonese): Madam Deputy, a new era requires new momentum. After five years of consolidation and adjustment, the Government of the Special Administrative Region (SAR) is no longer pursuing smooth transition. Instead, it is trying to reform its governance, in a bid to bring Hong Kong to new horizons through putting emphasis on accountability, efficiency and performance. This meeting is the first one held by this Council in the second term of the SAR Government. As a representative of the sports sector, I am very pleased to explore with Honourable Members the future development of sports on this very special occasion.

The domains of "ethics, intellect, physique, social skills and aesthetics" have always been considered the "five basic forms of education" for nurturing talents, and playing an important role of "linking the past and future". Unfortunately, under the past influence of academic advancement, sports activities were persistently neglected by parents, schools and the Hong Kong Government. As a result, sport is reduced to a non-essential leisure game. This is a major drawback in our efforts to nurture talents. Into the new century, the SAR Government has entered a new stage of. More talents with more comprehensive abilities are needed to help Hong Kong seize the new opportunities and rise to fresh challenges. It is therefore timely and correct for the Government to review its sports policy with an inspiring and forward-looking approach, restructure its administrative framework, and redeploy its resources.

Nevertheless, will the Government's promise turn into an impressive-looking bounced cheque? Will past blunders continue to appear in another form? Can Hong Kong's sports cause march forward boldly?

In this respect, I would like to share with Honourable Members some of the enlightenment I have gained from this year's World Cup Finals.

First, the fact that some traditionally strong teams have performed badly and new forces started to gain ground has fully demonstrated that strong and weak are not absolute. We should never be afraid of starting late. It is most important that we are willing to fight to the end. If we persist, everything can be achieved.

Second, sport can not only strengthen our physique, but also unite nationals, pool sentiments, and upgrade national strength. Korea has managed to foster the internationally acclaimed "Korea's spirit" through the performance of Korean athletes. Without such vision, we can hardly succeed in carrying out reforms.

Third, the achievement made by Korea today was attributable to its appeal for public donations during a period of economic hardship, as well as its encouragement to athletes through exempting them from military service and providing them with houses. In order to succeed, we must have determination, policy and resources. All these efforts are going to yield return.

As regards the Report, I would like to point out that life is dependent on sport, sport on nurture, nurture on management, management on resources, resources on policy, and finally policy on ideals.

We agree it is essential to formulate a full set of strategies to help Hong Kong develop a strong sporting culture in the community, to achieve greater excellence by our elite athletes, and to raise our international profile on sport with a view to gaining wider recognition and creating new opportunities for economic growth.

How are we going to achieve these goals?

First, nurturing talents. In the past, "sports-for-all" was promoted by the Government as its key policy objective. However, emphasis was put on "quantity", such as the number of sports facilities, sports items, and the number of participants. The effectiveness brought about by improving "quality", such as improving public health, upgrading standard of living, strengthening cohesion of society, fostering team spirit, boosting work efficiency, promoting international friendship, upgrading international image, and so on, was not given due attention and made a policy objective. As a result of favouring quantity over quality, the relevant work tended to be superficial and institutionalized.

Our sports policy will not have realistic significance unless it starts from the angle of nurturing talents.

Second, strengthening policy support. As sport is a guiding principle of nurturing talents, not a dispensable leisure activity, it should be matched and supported by other policies and measures in order to create an objective environment to facilitate and promote sport pursuits. For instance, physical education should be made a compulsory subject in school examinations; physical education results be included for the purpose of evaluation in civil servant recruitment exercises; and restrictions on commercial sponsorship for sports activities be relaxed.

Third, professional management. Sports activities demand accuracy, excellence, precision, a strong sense of professionalism and a high level of skill. As a result, a soccer star will not act as a diving instructor; a gymnastic contestant will not be involved in boxing. In order to promote sports, the relevant management work must be carried out in a professional manner. If professionals were led by outsiders, it would only lead to poor public participation, unstable athlete performance in competitions, and poor utilization rates of sports facilities. We must note that the Government's previous practice of allocating sports facilities in each district on the basis of population in a mechanical manner is simply lack of flexibility. The characteristics of individual communities and sports were also neglected. At present, sports facilities are not only overlapped, but also fail to meet standards required for international competitions, and lack commercial attractiveness. Eventually, we can find "unused venues as well as people looking for venues". In the past 12 months, only 7% of the public took part in the cultural and sports activities hosted by the LCSD .....

**DEPUTY PRESIDENT** (in Cantonese): Mr FOK, your time is up.

**MR TIMOTHY FOK** (in Cantonese): Fine, with these remarks, I support the motion.

**MR ANDREW CHENG** (in Cantonese): Madam Deputy, entitled "Towards a More Sporting Future", the Report of the Sports Policy Review Team (the

Report) published by the Home Affairs Bureau covers a number of sport-related policy areas. On behalf of the Democratic Party, I will speak on the three aspects concerning the administrative structure, funding mechanism and issuance of sports lottery.

The early chapters of the Report deal mainly with such subjects as promoting a sporting culture, improving venues, rendering support for athletes, and so on. Members of the community are in general supportive of the major direction of these proposals. The latter chapters of the Report, that is, the proposals concerning reform of the administrative structure for sport, funding arrangements and issuance of sports lottery, are however greatly controversial. The Democratic Party cannot agree to these proposals. Now I would analyse the contents of the Report *seriatim* and illustrate our reasons for objection.

First, the proposal of reforming the administrative structure for sport. The Government considers it necessary to reform the existing administrative structure for sport and proposes the establishment of a Sports Commission to formulate policies on sports development and oversee the implementation of such policies. At the same time, it is proposed that the Hong Kong Sports Development Board (SDB) be dissolved and its elite training work be taken over by a reconstituted Hong Kong Sports Institute (HKSI).

Madam Deputy, while the Democratic Party agrees that it is essential to reform the administrative structure for sport, the problem cannot be resolved through the establishment of a Sports Commission which is merely an advisory organ without solid powers. In theory, the Sports Commission should be the most authoritative body for formulating and implementing sports policies. Without decision-making power, executive power and funding allocation power, however, I am afraid the Commission will only become a "powerless commander" and can hardly play a leading role in sports development.

Madam Deputy, in order to reform the relevant administrative structure, we consider it necessary to set up a sports development organ which is in full control of sports policies and has adequate power to appropriate funds. Actually, it is simply unnecessary for the Government to dissolve the SDB since it will not only result in the removal of the inherent problems faced by the SDB. The valuable experience gained by the SDB in sports development over the past decade will also be abandoned too. In my opinion, the Government only needs to upgrade the existing SDB to the highest organ responsible for co-ordinating



the development of local sports, and vest in it the power to approve funding. At the same time, the Government can revamp the SDB its management and administrative structure and appoint representative members from the sports sector to its management board, with a view to improving the negative impression associated with the SDB in such aspects as administrative redundancy and unfair allocation of funds. I believe this can help reinforce its status in leading the development of local sports, and help concentrate its resources on formulating long-term sports development policies.

Madam Deputy, the Report has only raised three major points with respect to allocation of funds:

- (1) to review the criteria in subventing sports governing organizations (traditionally know as NSAs);
- (2) to simplify procedures for the application of funds by NSAs; and
- (3) to set up one single funding body for sport.

As we all know, the reasonable distribution of resources has all along been the crux of the question confronting the sports sector. It is really surprising that the Report has only touched upon this issue lightly and recommended the setting up of a single funding body. It has not stated clearly the composition of this organ. Will it operate independently, or will it become part of a Sports Commission to be set up in future, or will an alternative arrangement be introduced? Although the Report criticized that there are problems with the existing funding and subvention arrangements of the SDB, it only made a vague proposal of reviewing the subvention criteria and simplifying the procedures for funding applications. Such a simplistic analysis and vague proposal are really disappointing. How can it convince NSAs and the public that the future funding system will be fairer and better?

Madam Deputy, if we consider it unnecessary to discuss the relevant mechanism because of the simple expectation that the members of the future Sports Commission can put in place a fair and reasonable funding mechanism, and the person in charge of the future single funding body will be able to deal with various funding applications fairly, we are undoubtedly trying to hand over the supreme power of funding allocation to a group of unidentified persons. Such an approach of the rule of man will only make funding more uncertain. If

the Government considers it necessary to reform the existing funding mechanism, it must first of all put forward specific proposals for full consultations with the sector and the public. Failing this, the task of designing the new funding mechanism will be handed over individuals in future, without improving the funding arrangements. This will only intensify the conflicts arisen as a result of NSAs' scramble for resources. In that eventuality, the establishment of the Sports Commission will not only fail to ease the "sectarianism" and "coeterie culture" of the sports sector, but also make the scramble for resources more intensified.

Madam Deputy, I would now like to say a few words on sports lottery. The Government has cited many overseas examples to illustrate that raising capital through lottery can help sports development. The Home Affairs Bureau has even proposed expanding the betting options of the "Mark Six" Lottery to lure betting. I just cannot help thinking that the "Mark Six" may in future even accept bets as to whether a certain number will appear. Are there any differences between this form of betting and the playing of "Sic Bo" and roulette in casinos? Judging from the Government's proposal of legalizing gambling and its present proposal of issuing sports lottery or introducing new betting options for the "Mark Six" Lottery, we may as well say that its intention of liberalizing gambling is "obvious to all".

The importance of sports development has all along been ignored in Hong Kong and there has been a lack of comprehensive sports policies. Following the gaining of excellent results by some athletes in international events, however, the Government and members of the community have started to pay attention to the importance of sports development. Nevertheless, we must not promote the idea of further liberalizing gambling for the sake of meeting the needs of sports development. This is because it will only make more people, particularly young people, indulge in gambling, while gambling is totally contradictory to the sporting spirit of "participating regardless of winning or losing". The Democratic Party would like to suggest the Government to further examine the feasibility of revamping the existing betting duty system so that part of the proceeds from such duty can be used to meet the expenditure incurred as a result of promoting sport.

In conclusion, while the Democratic Party agrees to the Government's proposal of promoting sport, it has great reservations about the proposal of reforming the administrative structure for sport. It is feared that the latter

proposal will not only fail to improve the existing structure, but also make funding more uncertain and conflicts among members of the sports sector more intensified and heated.

Madam Deputy, I so submit.

**DR TANG SIU-TONG** (in Cantonese): Madam Deputy, the Report of the Sports Policy Review Team (the Report) has made a number of recommendations with respect to the sports policy in Hong Kong. These recommendations include, *inter alia*, promoting a culture of active participation in sport, providing students with more sporting opportunities, rendering support to disabled athletes, and improving the planning and management of sports venues. I believe these recommendations will gain extensive public support. The most notable recommendations must be the establishment of a more specific and effective administrative structure for sport and the conduct of a review of public funding for sport. According to the explanation given by Mr LAM Woon-kwong, former Secretary for Home Affairs, the major problems with the existing administrative framework lie with overlapping of functions of sports organs, unclear delineation of duties, and the lack of a specific central authority to co-ordinate the overall policy, planning, co-ordination, and supervision of sports development. The Report has recommended that a Sports Commission be set up to take charge of formulating the sports policy and overall co-ordination. It has also advanced three proposals as to how this Commission can be set up. One of the proposals involves the dissolution of the Hong Kong Sports Development Board (SDB).

Madam Deputy, the performance of the SDB has come under fire from the public in recent years. It has also drawn criticism from the Audit Commission and the public for its faulty management, wastage of public money, and so on. For instance, the SDB has been criticized by the Audit Commission for the low utilization rate, lower than 21% on average annually, of its sports facilities. The sports sector has also challenged the SDB for its unfair distribution of resources and exorbitant administrative expenses, which has resulted in insufficient fund for athletes.

I agree that the existing administrative structure is flawed, and that such problems as unclear powers and responsibilities, poor co-ordination, and

overlapping of resources must be rectified. However, the dissolution of the SDB and the establishment of the Sports Commission do not imply the problems can be resolved immediately and the sports policy be implemented effectively. To start with, the Report has failed to further elaborate the relationship between the Sports Commission, the SF&OC and various NSAs. The setting up of the Sports Commission can do nothing to help if a proper mechanism is lacking to co-ordinate and support the work carried out by various relevant organs or departments. Furthermore, government departments should be held partially responsible for the problems with the existing sports policy. The Government must attach greater importance to the sports policy and improve its efficiency in implementing the policy. Moreover, it should continue to conduct extensive consultation and studies on the new structure. In any case, in designing and setting up the administrative structure for sport, the Government must keep the structure as streamlined as possible and ensure that government funding can truly be used on sports development.

Madam Deputy, to improve the administrative structure for sport is only one of the measures for improving the formulation and implementation of the sports policy. As public participation plays a crucial role in promoting sports enthusiasm, the Government must adopt a more proactive approach in promoting sporting activities among the public. District Councils should play a more active role in this because they best understand the needs of the people. Furthermore, government departments must improve their rigid management of sports facilities and facilitate various sports organizations and resident associations in organizing sports activities. At the same time, the Sports Commission, as a central organ, should make good use of the facilities of the HKSI to concentrate on elite training to prepare elite athletes for international events, thereby upgrading local sports standards and boosting public interest in sport.

Madam Deputy, I so submit.

**MR ABRAHAM SHEK:** Madam Deputy, as evidenced by my size, I do not need to tell Members that I am not an expert on sports policy. But I am a great sports fan and have played occasionally in a few sports during my leisure hours. Naturally, I am concerned with the development of sports in Hong Kong. It is with this fondness for sports that I speak on today's motion.

The Hong Kong Sports Development Board (SDB), a highly autonomous public body that controls the distribution of government sports funding, has been plagued by a succession of accusations of incompetence and favouritism against its funding policies. It is not infrequent to hear open complaints from clubs of less popular sports about inadequate funding due to unfairness in funding allocation. Some even protested that the problem has worsened to such an extent that it has threatened their survival critically.

The SDB's public image has not been impressive as there have been criticisms against its high-handed way of running its business completely behind closed doors and the lack of adequate supervision and transparency. It is alarming to note that the attendance rate of the SDB members at its meetings is one of the lowest among public bodies last year. Half of the SDB members attended only one of the four meetings. This single figure is enough to let us catch a glimpse of the relatively low level of accountability of the SDB.

In the Report of the Sports Policy Review Team (the Report), the Government proposed to dissolve the SDB, indicating its firm determination to solve this modern day "Gordian knot" permanently. Two new bodies will be formed to replace the SDB. A consultative Sports Commission (the Commission) will be set up to take up the SDB's role of strategic policy planning and co-ordination. Another independent body will also be formed to take up the SDB's role as a funding agency.

I agree that reform is necessary, since the SDB has in many ways performed well below par and let down the community's expectation for a public body in the development of elite sports. My concern is whether the proposed reshuffle will be the best solution to all the problems, in particular, whether it will achieve the purpose of reform. The reshuffle involves the creation of two new bodies, which will be set up as public bodies and have functions similar to those of the SDB. Is it possible that the successors may become just another SDB over time? This same question has been raised by some members of the community. And I share the same concern that the proposal may not be well thought-out before being included in the Report.

I am particularly concerned about the co-operation between the Commission and the new funding agency. The Commission will be responsible for formulating policies, but it will not have the resources to implement them. Since the Commission has no control over how funding is deployed, how can it

ensure that its policies will be duly implemented by others? What would happen if the future funding agency will disagree with the Commission's policies, and will choose not to follow them? Who would suffer? Our sportsmen and sportswomen would be the ultimate victims.

The Government has clearly stated in the Report that it is unwilling to take up the job of the SDB, claiming that the Home Affairs Bureau has already had its hands full and will not be able to accept additional workload. Once the SDB is dissolved, the Commission will be left in a weak position to monitor the implementation of sports policies. Without a strong central authority, local sports development may be left on its own again. Clearly, it is unfair to both the Commission and the sports sector as a whole.

In the Report, the reshuffle proposal was outlined in a few brief lines. The Government has failed to adequately list out the pros and cons of the proposal. This, I must say, is not helpful to rational and constructive discussions. Without a foundation of open and thorough debates, the public may not be able to reach consensus or render support for the Government's proposal. In this regard, I could not agree more with the Government's view that the Report should not be considered as the last word on the future direction for sports development — rather, it is a long-term process. And this process demands the active and full participation of all the stakeholders in the sports sector, with the support and trust of our Government.

Finally, I urge the Government that it should be very careful and sympathetic in dealing with the SDB staff who have been serving the SDB well even when it shall meet its Waterloo.

Thank you, Madam Deputy.

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, in such a tiny place as Hong Kong, there are currently 24 sports grounds with standard running tracks and grass pitches, 36 complexes with swimming pools and 82 indoor games halls. Furthermore, there are 265 public tennis courts, 414 indoor and outdoor basketball courts and 71 natural and artificial grass pitches throughout the territory. We can see that there is definitely no lack of popular sports facilities in Hong Kong. Our stadia and swimming pools can even be described as topping the world record in terms of density. In spite of the numerous sports

arenas and a considerably high participation rate in sport, sports standards in Hong Kong have remained relatively low over the years. The relatively low standard of athletes in Hong Kong is attributed to the failure of the Hong Kong Government to actively promote sports policy, though it is duty-bound to do so. It should therefore be held responsible for this phenomenon.

The Government has made a number of mistakes in its sports policy, one of which being the blunder it made in training athletes. For years, outstanding athletes in Hong Kong have received poor support. On the one hand, they have to undergo training and take part in competitions; on the other, they have to work very hard for their living. It is simply impossible for them to concentrate on training. It is extremely difficult to become a professional athlete. Although slight improvement has been made in this area in recent years, many professional athletes are still not sure of their future as there is hardly any protection for their living after retirement from competitive sports. The Government and the authorities concerned must therefore conduct a review and introduce improvement measures with respect to the future of outstanding athletes.

The second mistake is that, under the present sports structure, the experts are being led by the laymen. Although sports organs and organizations (including the Government) comprise numerous people who are enthusiastic in charity and sports promotion, they lack experience and knowledge in professional sport. Insofar as the Government is concerned, many of those who are responsible for promoting sports activities are career bureaucrats who lack the required professional expertise and skill in sports. As a result, they seem like "scratching an itch through the boot" in promoting sports. In addition, the experts are being led by the laymen.

The third mistake is that the entire sports development is led by career bureaucrats. The presence of these bureaucrats, who lack sports expertise, will not only make it difficult for members of the sport sector to unite, but also stifle sports development. Actually, a sports promoter must be a sports enthusiast. He must not see sports promotion as merely a job. Such passion is precisely what career bureaucrats lack. If we are to improve sports development, the Government must break its career bureaucrats-led mode of operation, widen the scope of participation and leadership for members of the sports sector, and reverse the unhealthy situation whereby the laymen are leading the experts.

The fourth mistake is that sports organizations and sports governing organizations (traditionally known as NSAs) lack professional leadership and management. At present, there are 36 major NSAs in Hong Kong. Moreover, there are some 100 public venue-based and NSA-affiliated community sports associations, and 19 district sports associations. Some of these sports associations have performed badly for their persons-in-charge are mostly members of the business sector, who very often participate in sports activities merely for purposes of charity, social gathering, or killing their leisure time by way of "holding meetings, playing ball games or appealing for donations". Many of them fundamentally lack sports expertise and organization power, not to mention being a professional. Some of them have even failed to achieve the standard of an amateur. It is even more disappointing that some sports organizations are "passing off fish-eyes as pearls". Very often, they are actually promoting "mahjong game" in the name of sport. We can often hear claims of "going mahjong" such as "winning by pairs, flush", when visiting some of the sports associations. If "mahjong playing" can be formally listed as an Olympics event, Hong Kong can surely win another Olympics gold medal after the brilliant achievement of Miss LEE Lai-shan.

The standards of sports organizations in Hong Kong are greatly varied. Although the number of such organizations in Hong Kong is not small, only a few of them have made contribution and achievements, and participated in practical terms. Of course, I agree that some sports organizations have a passionate interest in promoting sports. However, they find it hard to do so because of their lack of resources, professional knowledge in administration, sports expertise and government support. I therefore see it necessary for the Government to provide these sports organizations with administrative, financial and management support. Effective monitoring should also be put in place to prevent anyone from fishing in troubled waters and wastage of resources.

The reform proposed by the Government this time is fundamentally "a change in name only". The proposal is simply unable to target the phenomenon whereby the experts are led by the laymen, and prescribe the right remedies to tackle such problems as the prospects of full-time athletes. As a result, Hong Kong's sports standards still lag behind the world standard, despite the presence of many sports facilities up to the world standard.

Madam Deputy, I would like to take this opportunity to pay tribute to the retired and serving Hong Kong athletes, particularly those full-time athletes.



Among them, my tribute goes particularly to those who have retired, for they were not only required to undergo training with great determination, but also eke out a living. Many of them were even required to meet the expenses of hiring their own coaches and representing Hong Kong in overseas events out of their own pockets. What is more, they had to face the misunderstanding of their family members and contempt from members of the community. Their living after retirement is not protected too.

Madam Deputy, another abnormality in the local sports sector is that while sports executive personnel are paid high salaries, with some of them earning a few million dollars a year, professional athletes have to work very hard to scrape a living. Such an abnormality must be rectified.

**DR RAYMOND HO** (in Cantonese): Madam Deputy, in addition to being beneficial to our physical and spiritual well-being, sport has a profound impact on the development of a place too. Not only can it boost economic development, it can also bring countries closer to each other. The World Cup Finals that have just finished are one good example. Following the completion of all matches for this year, I believe South Korea and Japan will definitely understand each other better. The hosting of the Olympics by China in 2008 will be a major event in the international sports scene. As part of China, how can Hong Kong drag its feet in sports development? Therefore, in spite of the fact that it remains the paramount task for the Hong Kong Government to tackle the current economic hardship, it is impossible for us to ignore sports development. I am pleased to see that the Home Affairs Bureau has published the Report of the Sports Policy Review Team (the Report) in relation to the territory's sports policy, and consulted members of the sports sector and stakeholders. With respect to the Report, I would like to express my views as follows:

I agree that there is overlap between the work of the SDB and the Leisure and Cultural Services Department (LCSD). The delineation of their duties is unclear too. While the SDB is responsible mainly for developing high performance sport, the LCSD's job is mainly promoting sports-for-all programmes among members of the public. However, what is the difference between "promoting" and "developing"? What does "high performance sport" really mean? Do sports activities lying between high performance sport and sports-for-all programmes fall within the ambit of the LCSD or that of the SDB? In order to enhance efficiency and save resources, the Government must clearly

delineate the scope of work between the LCSD and the SDB if the latter is to be retained.

As for the Sports Commission mentioned in the Report, it is in theory merely an advisory organ. A lot of resources will definitely be saved if it is to replace the SDB. Therefore, this idea is basically good. Nevertheless, there are two points I would like to raise if the Government is to let the Sports Commission take over the functions of the SDB. First, the scope of work of the Sports Commission must be clearly delineated from that of the LCSD. Second, SDB staff should be hired as far as possible to alleviate unemployment.

In my opinion, the Report's recommendation of setting up a single funding body for sport is a very good idea for this can enhance efficiency and save unnecessary resources. If the Government implements this proposal, I hope it can expeditiously formulate a clear set of criteria and procedures for approving funding applications so that we can have the resources expeditiously for the purpose of training athletes to win honour for Hong Kong. The next Olympics are drawing near. The Olympics to be staged in Beijing are not far away too. It is now time for us to prepare ourselves for winning one more gold medal in the Olympics or even more for Hong Kong.

Lastly, I would like to say a few words on physical education (PE). As Members are all aware, most people of Hong Kong do not do enough exercises. Even though primary and secondary students are required to attend PE lessons in school, they do not necessarily do more exercises than adults because of the limited number of PE lessons and insufficient time. I therefore agree with the recommendation made in the Report to increase the number of PE lessons to three per week for primary schools and Forms One to Three of secondary schools. However, it is also undeniable that students of Secondary Three or above and university students are also lack of exercises. I hope similar arrangements can be made available to Forms Four to Seven of secondary schools too. In addition, the Government should encourage universities, including local, mainland and overseas universities, to stage more sports events to boost students' participation in sport, and widen their vision.

Sport can help build a strong body. Only with a healthy body can we get the necessary energy to work. Therefore, I agree that the Government should promote sports development, both from a personal or economic point of view. Hong Kong is internationally renowned for its financial system; its performance

in sport is so far barely satisfactory. Bearing in mind South Korea's breakthrough in this year's World Cup Finals as one of the four finalists and its outstanding performance as an Asian country, why can Hong Kong not achieve something in the sports arena? I believe a perfect sports policy can help Hong Kong lay a foundation for its sports development and pave the way for a better future for the territory in the international sports arena. More importantly, we have to make sport even more popular so as to raise public interest in sport, help the public build up a stronger body, and improve public health.

With these remarks, Madam Deputy, I support the motion.

**MR TOMMY CHEUNG** (in Cantonese): Madam Deputy, sport is good for our physical and spiritual being. Suitable exercise can not only upgrade the standard of public health and reduce medical expenditure, but also help raise the standard of living and work efficiency. To this end, the Report of the Sports Policy Review Team (the Report) has mentioned the objectives of sports development in Hong Kong, namely, to develop a strong sporting culture in the community, to achieve greater excellence by our elite athletes, and to raise our international profile on sport. The Liberal Party greatly shares these objectives. What is more, we are convinced that sports development in Hong Kong can bring opportunities of economic growth, as pointed out in the Report.

Actually, the Liberal Party pointed out when Beijing succeeded in its bid to host the Olympics in 2008 that Hong Kong could seize this golden opportunity to promote local sports development. It is a pity that sports have persistently been ignored in Hong Kong. Although the people of Hong Kong love ball games and are enthusiastic about such international sports events as the Olympics, Asian Games, and so on, most of them do not have much interest in actual participation. They are merely spectators. Coupled with the economic depression plaguing Hong Kong in recent years and severe pressure faced by Hong Kong people in work and daily lives, sport has gradually become a luxury.

Furthermore, members of the community often have a misconception that athletes are low achievers. Moreover, the living of professional athletes is not protected. It is not easy for them to establish a new career after retirement too. These elements, together with insufficient government support, have resulted in the failure of athletes to gain reasonable recognition in society.

Of course, we should not confuse sports-for-all with elite training and professional sports, which seek to achieve greater excellence. The upgrading of the social status of athletes can however have a positive impact on promotion of sports. The proposal of promoting "sports-for-all" through community sports clubs at the district level is the correct first step. In doing so, I hope sports can become part of the living habits of the people of Hong Kong.

The Report has also recommended that the number of physical education (PE) sessions for students in Primary One to Secondary Three be increased from two to three per week. The Liberal Party full appreciates that the authorities very much hope students and the education sector can treat sports and textbook knowledge as equally important.

Nevertheless, it is meaningless for us to merely run after numerical increases. In the opinion of the Liberal Party, the crux rather lies in upgrading the standard of the PE curriculum. Actually, most schools do not pay much attention to PE lessons. Their evaluation requirements are very low too. Students are only required to throw beanbags or play with hula hoops during PE lessons. Moreover, a lot of students just muddle through PE sessions, and many of them see PE as a grind. So it brings us back to the old issue discussed earlier. If the community fails to nurture a passion for sport and the thinking that "sports can be a lifelong career", we can hardly expect the public to take sports seriously. Naturally, we can hardly arouse interest among the students too.

The Liberal Party understands that a mindset cannot be changed overnight. In this respect, the Liberal Party would like to suggest the authorities to reinforce the idea of "one sport for life", as advocated by the Education Department, so as to help students to nurture interest and become specialized in at least one sport at a very young age. At the same time, there should be a basic requirement in terms of the physical ability of students. In doing so, students will be able to take part in sports in a causal atmosphere, while a serious attitude towards sports too.

It is recommended in the Report that consideration can be given to awarding extra credits to outstanding athletes in admitting them to senior secondary schools and universities. The Liberal Party very much agrees to this proposal. The authorities may even make it a standard requirement by making

a request through the University Grants Committee to include sports results in the criteria for university admission, or to set aside a certain proportion of places for students who have excelled in sports.

The Liberal Party basically supports the recommendation of replacing the SDB with a Sports Commission to be established shortly. Actually, the SDB has in recent years been plagued with numerous problems such as its involvement in a case concerning a former Legislative Council Member, Gary CHENG, and such negative news as the exceedingly high salaries allegedly paid to its senior staff and excessive administrative expenses. It seems that the SDB is doomed to be abolished.

However, the Liberal Party is concerned whether the change is going to be a superficial. With respect to the proposed establishment of the Sports Commission, we would like to urge the authorities to ensure the membership of the Commission can fully represent the interest of various sectors. In addition, the Commission should be highly transparent and maintain an adequate proportion of sports representatives to prevent the emergence of a situation whereby the laymen will lead the experts.

When it comes to sports resources, the expenditure of the LCSD and the SDB was mostly used on meeting administrative expenses and staff salaries. Expenditure on training athletes represented only a very small proportion. The Liberal Party is of the view that such an imbalanced situation must be rectified. It is also hoped that the authorities can do better in funding allocation and supervision.

The Liberal Party is holding a liberal attitude towards the recommendation of expanding the "Mark Six" options and introducing a "Sports Lottery" for the purpose of subsidizing local sports development. It has actually been pointed out by the authorities that many overseas countries with advanced sports development are using part of the proceeds from "Sports Lottery" to meet their sports expenditure. A number of local sports governing organizations and people in the sports sector have also publicly expressed their support for this recommendation. We hope the authorities can examine the relevant details expeditiously to determine, for instance, whether government subsidy will still be required after proceeds from lotteries have been allocated to the sports sector, or whether the proceeds should be returned to the Government for administration and allocation according to the actual needs of various social welfare

undertakings before being channelled back to sports development. It is hoped that the authorities can make serious and prudent planning for all these issues.

With these remarks, Madam Deputy, I support the motion.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam Deputy, Hong Kong is not short of sports enthusiasts. The fact that lots of people crowded the streets when matches of the World Cup Finals were broadcast serves as consummate evidence. There is also no lack of sports resources in Hong Kong. In 2000-01, the government expenditure on sport alone was as much as \$2.5 billion. Although members of the public do exercise and watch sports events every day, it does not occur to them that the Government is playing an important role in sports promotion. Why? It is because less than 10% of so-called expenditure on sports is truly and directly used on sports activities. In the previous year, the Leisure and Cultural Services Department (LCSD) received a total funding of \$2.24 billion, with 42% of it going to staff remuneration and benefits, and 50% to operation of venues and administrative expenses. Less than 8% was used for funding sports activities and sport-related items. In the same year, expenditure of the Hong Kong Sports Development Board (SDB) added up to \$260 million. However, less than 60% of the total sum was spent directly on elite training and funding sports associations. Has the Government used its sports resources for promoting sports and training elite athletes, or for supporting sports executives? The answer is indeed evident to all. Whether Hong Kong can succeed in promoting sports and upgrading its sports standards actually hinges on its administrative structure for resource utilization, rather than on the availability of resources.

For these reasons, I support the recommendation made in the Report of the Sports Policy Review Team (the Report) to re-engineer the administrative structure for sport. There are two major problems facing the Government's existing sports structure: First, its work involves such organs as the LCSD, SDB and sports governing organizations (traditionally know as NSAs). However, the delineation of duties among these organs is unclear. Second, though the SDB is responsible for allocating funds to other sports organizations, disputes over distribution of funding have arisen from time to time. Actually, many NSAs have managed to gather around them many enthusiasts and organizers for specialty sports. Nevertheless, owing to resource constraints, the work and management of NSAs are subject to severe limitation. The money injected by

the Government is supposedly meant for supporting sports activities. The total sum is not small indeed. However, not many people in the sports sector have truly been benefited. Take the Hong Kong Life Saving Society, to which I belong, as an example. This organ is responsible for the issue of awards to lifeguards in the territory. However, the amount of funding from the LSCD has been diminishing year after year. The total amount it received in 2001-02 was \$577,000, and dropped to \$557,000 in 2002-03. The economic depression has generally made it harder for members to "canvass" large donations in support of the Society. Due to the shortage of funds, the Society has been forced to reduce the scale of its operation and activities, not to mention promoting life-saving and upgrading the standard of specialty sports?

In my opinion, the Government must foster a partnership with the sports sector and avoid as far as possible interfering in specific sports affairs if we are to make sports development professional and yet popular, diversified but also cost-effective, and endowed with a macro perspective while meeting the specific needs of the sector. It will be most appropriate of the Government to take care of work in the following aspects: First, to set a direction for territory-wide sports development; second, to determine the overall allocation of funds for sports organs; and third, to be responsible for the management of all venues. Specific supervisory work can be entrusted to an independent and high-level Sports Commission, as recommended by the Report. Being an organ with actual power, extensive representativeness and high transparency, the Commission should be responsible for planning, co-ordinating and supervising territory-wide sports affairs, and prioritizing funding allocation in accordance with the respective amount of funds set aside by the Government for the SDB, NSAs, District Councils and district organs annually. At the same time, the Commission should set funding conditions for compliance by its sports organizations and monitor the effectiveness and efficiency of these organizations in meeting the requirements.

In conclusion, sports development and promotion should be co-ordinated and delineated in such a way that the Government will be made responsible for setting the macro way forward and providing resources. The Sports Commission will in turn be responsible for co-ordination and supervision and its work should be taken forward in three directions, namely professional sport, sports-for-all and recreational promotion. This should be helpful to strengthening the co-ordination of relevant organs in sports development and enhancing the effectiveness of resource utilization. Relevant sports organs will

no longer be required to deal with funding allocation. Instead, the Government will, in accordance with the established direction for sports development, provide a specific sum of money to its targets on an annual basis. In order to minimize disputes arising as a result of funding allocation, each sport organ will be accountable to the Sports Commission over the utilization of funds it has received. The recreation of a more standardized and clearer administrative structure and method of resource allocation will naturally strengthen the unity of members of the sports sector, thereby enabling the local sports business to achieve better results under a more conducive environment.

Madam Deputy, I so submit.

**MR HENRY WU** (in Cantonese): Madam Deputy, since my days in primary school, I have always been very fond of sports and I was one of those football fanatics who would not be happy without playing football. Nowadays, apart from taking part in sports activities as much as possible, I am also very interested in and supportive of local sports development. Therefore, I am very concerned about the review on sports policy and its recommendations and welcome and fully support the motion moved by Mr IP Kwok-him today. I would also like to point out in passing that I am a trustee member of the Hong Kong Tennis Foundation Limited, a member of the Hong Kong Tennis Association, the Honourary President of the Hong Kong Table Tennis Association and a trustee of the Elite Athletes Charity Trust.

Since these sports organizations which see my participation have already made representations concerning the Report of the Sports Policy Review Team separately and some of the views were discussed in the Home Affairs Panel meeting on 22 June, I do not intend to repeat those views and will only focus on reiterating several major points, in particular those relating to the policy on athlete training.

Hong Kong is a tiny little place with a large population and land is precious. However, in sports activities, a lot of space is required for athletes to do their drills. Moreover, various historical factors have also imposed certain constraints on efforts by various sectors of society to promote a sporting culture and various sports, so that the training and development of local athletes have been suppressed for a long time.



In addition, the types of sports have increased in recent years. Apart from conventional types of sports in my youth, such as football, table-tennis, badminton, track and field events and swimming, with advances in society and China's achievements in international competitions, the types of sports have become increasingly diversified in recent years. With the active participation and support of members of the public, various NSAs have been established, leading to an unlimited expansion in resources required by the administrative structure of sports. Therefore, it is timely and appropriate to propose a review on sports policy.

Madam Deputy, the sports sector generally welcomes this review on sports policy. Some individuals hold the view that this should begin with a reform of the overall structure so as to facilitate the promotion of sports. However, I believe that irrespective of the changes that should be made to the structure of sports organizations, the most important thing is to instill a sporting culture in our next generation from the tender age.

By sporting culture I mean "two attainments and one spirit". The two attainments are physique and technique, and the spirit is that of sportsmanship. A good physique can give us a healthy body and techniques are derived from repeated practice and the pursuit of excellence. Sportsmanship can foster the desirable personal quality of attaching the utmost importance to friendship, which is very important to the growth of any person (for both athletes and non-athletes alike) and can foster the development of the whole person. The training in these three aspects should take place simultaneously and be closely intertwined so as to achieve the best result, and in the absence of any one aspect, the promotion of a correct sporting culture would not be possible.

Firstly, I believe it is imperative that students in Hong Kong enhance their physical training. When I was in primary and secondary school, I was very fond of sports and very active in sports sessions. I was also a member of the school football team and won prizes in track and field events, so I thought I was someone to reckon with. Little did I realize that there was a higher level of excellence before I went abroad for study. Compared to my counterparts who had received comprehensive sports training from a young age, I realized that I was only like a frog dwelling at the bottom of a well and was far inferior in physique. The reason is that, like other Hong Kong students, I made the common mistake of just doing some stretching exercises after a fashion in sports sessions and could not wait to dash to the football pitch to play the game. In

contrast, in other countries, a lot of physical exercises are required in a sports session of 30 minutes, including situps, bar dips and making one's way through monkey bars, as well as doing steeple chase and jogging along the tracks. If one has any strength left afterwards, then there are about five minutes to play football. Otherwise, the five minutes are spent on gasping for breath. Without a good physique, it is not possible to take part in one's favourite sport, therefore the emphasis is on physical training from a young age.

Madam Deputy, apart from physique, it is equally important to master the technique of a sport, and I wish to stress that quality and quantity are equally important. It would not do just to have physical strength but no technique. In the World Cup matches, if one has only physical strength but no technique in controlling the ball or any other skills, I believe it is still impossible to contest the championship. Therefore, I believe the emphasis of the review should not lie in whether the number of sports sessions in primary and secondary schools should be increased, rather, the key lies in professional instructions in sports techniques and curriculum design. These are better ways to improving the sporting culture.

Apart from the two attainments of physique and technique, I believe sportsmanship is the most important of the three elements. Regardless of the type of sport, and how good a physique and how excellent a level of technique is required, it is still necessary to have good sportsmanship. In the World Cup matches which have just concluded, apart from watching how the two world-class teams of South Korea and Turkey contest the title of second runner-up, what is even more worth watching is the way players of both teams put their rivalry behind their heads and forget their differences after the match. Not only did they swap their team shirts, they also huddled each other and went hand in hand round the pitch together without differentiation to express their thanks to the spectators. The team which had won was of course elated, but the defeated team was also gracious. At that moment, everyone had put aside the outcome of the game and the true sportsmanship of valuing friendship foremost was manifested to the fullest extent. In fact, it is rare to see such a scene.

Madam Deputy, the moral values of young people in Hong Kong nowadays are declining and they display a lack of perseverance in face of challenges and difficulties, and social problems such as burning charcoal, jumping from buildings, self-infliction of wounds and popping pills are becoming more serious. They are closely related to the imbalance in

development of the five areas of ethics, intellect, physique, social skills and aesthetics in our education system in the past. I believe that through promoting the sporting culture, which is one of the five areas of personal development and through grilling physical training aimed at promoting endurance, repeated training in techniques aimed at promoting perseverance, and the promotion of sportsmanship aimed at eliminating barriers between people, the social problems brought about by young people can be ameliorated.

In view of this, the long-term policy for sports development in Hong Kong has to, apart from superficial measures such as structural reform and increase in resources, place emphasis on promoting everyone's physique, training in techniques and fostering sportsmanship.

Madam Deputy, I so submit.

**MR NG LEUNG-SING** (in Cantonese): Madam Deputy, the World Cup Finals, which are held once every four years, have concluded. While the matches were being played, Hong Kong people, including those in this Council (one of whom is certainly the Deputy Chairman), showed great enthusiasm in this international sporting event, reflecting their zealous attitude towards football. The consumer market made an incredible recovery, which incidentally coincided with the spirit enshrined in the title of the Report of the Sports Policy Review Team (the Report), which is "Towards a more sporting future".

According to the deputations which attended a session of the Panel at invitation to make submissions, the recommendations put forward in the Report, including "participation", "maintaining support for disabled athletes", "creating a better environment for sport" or even "high performance sport" and "reviewing the sports administrative structure", are generally supported by the sports sector. Among them, the recommendations to dissolve the Hong Kong Sports Development Board (SDB), to establish a Sports Commission and to develop a "Sports Lottery" as a source of funding for sports have attracted more attention. The principal agencies currently providing sport services in Hong Kong are the SDB, the Leisure and Cultural Services Department (LCSD) and the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC). Indeed, there are problems of overlapping of duties, unclear division of labour and sectarianism. The SDB is a huge organization and administration expenses are

very high. It has often been criticized for its poor administration and inappropriate allocation of resources. In the year 2000-01, the total expenditure of the SDB was \$260 million, but only \$85 million was spent on training of elite athletes and \$62 million on staff salaries. This is an obviously unsatisfactory deployment of resources. The Sports Commission, which will be taking the place of the SDB is, according to the Report, a high-level agency responsible for the overall policy, planning, co-ordination and monitoring. I welcome the reforms to be undertaken by the Government on streamlining, co-ordinating and enhancing various work functions. Nevertheless, we must ensure the agency is able to discharge the relevant duties assigned to it, including drawing up and overseeing the implementation of the strategic policy for sports development. To effectively discharge their duties, members of the Sports Commission must have a clear delineation of responsibilities; otherwise it would be doubtful as to whether they would be fully committed to their work or be responsible for the effectiveness of their work. I learned from the newspapers that officials from the Home Affairs Bureau had indicated that the Sports Commission would only be advisory in nature, which is quite different from the role of the Sports Commission as an agency to draw up policies for sports development as recommended in the Report. This can be rather confusing. So, the Administration must first make it clear whether it wants a policy-making or advisory body. I find it incomprehensible how an agency responsible for consultation only can assume responsibility for drawing up policies for sports development.

Moreover, we think that resources dedicated to the training of athletes are inadequate. The Government has indicated clearly that due to the tight financial position, it would be difficult to increase resources on sports activities in the coming five years. Thus, the Report suggests earmarking some of the proceeds from Mark Six Lottery for sports or developing a "Sports Lottery" to support local sports. I think that we must be open-minded and realistic towards "Sports Lottery" or other betting activities, whether we are viewing the matter from the point of view of sports development or other social policies. However, we must be careful not to adopt an unthorough manner in running the "Sports Lottery", such as overly restricted issue of lottery tickets. We are afraid that if we are not thorough enough, we will not be able to pool a reasonable amount of resources for sports development in Hong Kong thus handicapping such development.

Madam Deputy, I so submit.

**MR MICHAEL MAK** (in Cantonese): Madam Deputy, among the recommendations made in the Report of the Sports Policy Review Team (the Report), I generally support the recommendations related to promoting an active sports culture, maintaining support for disabled athletes and reorganizing the administrative structure for sports. But I am most concerned about how the Government can change the public's lack of a habit of doing exercise presently.

Prevention is better than cure and everybody knows that suitable exercise is good for the body. However, it is easier said than done and Hong Kong people have not cultivated a habit of doing exercise. The result of a survey conducted by the Hospital Authority on 4 826 working people from November 2000 to March 2002 showed that almost 78% of the interviewees obviously lacked exercise. They had exercise less than three days a week and half an hour a day. A challenge for the Government in reviewing the sports policy is how to induce the public to cultivate the good habit of doing exercise.

A few surveys have found that regular suitable participation in sports is helpful to reducing hypertension, diabetes and heart diseases. From the perspective of mental health, sports can relieve the pressure of daily life and make us feel physically and mentally comfortable. On the basis of my personal experience, I used to be a fitness-training athlete and the sport made me strong and gave me strong willpower. Let me cite some examples. For more than 20 years, even if the temperature drops to only zero degree, I would bathe with cold water and save quite a lot of electricity charges. The arduous process of fitness training really helped me in cultivating a very positive outlook on life. But after I have become a Legislative Council Member, I seldom do exercise. If I could remain a Legislative Council Member until 2008, I hope that the new Legislative Council Building in future would have a gymnasium for Members.

From the angle of economic benefits, if employees are healthy and can concentrate on their work, their efficiency would often be higher than employees who lack exercise. Energetic employees would also establish a better institutional image. A recent survey conducted by the Baptist University indicates that the number of times employees without regular exercise take leave is almost double that of those who exercise regularly. How can we not admit, "health is wealth"?

After all, many people like me would say that they do not have time for various reasons and many people would decline sports for they are tired. Some

people would rather take proprietary medicine for slimming and eliminating toxic substances than spending dozens of minutes working out. Why?

Actually, a lot of professionals and the Government have taken great pains to promote to the public the importance of sports to physical and mental health. People certainly get the message, but why can sports not be fully promoted today? Perhaps it is somewhat related to the wrong concepts of the public about sports in the past. Hence, the Government must make more efforts and I hope that it can overcome this obstacle.

Madam Deputy, I wish to speak in rehabilitation of sports. The Honourable Henry WU has just said that he is one of those "football fanatics" ("波牛"). Some people have made negative interpretation of the term "football fanatics". Many movies and television programmes have also depicted students or youth forced to join the triad societies in football pitches or billiard rooms. When the sports have been adversely depicted that way, how can parents have peace of mind in allowing children to participate in sports, or persuade them to choose sports as a lifelong career? Thus, the Government should assist people in regaining confidence in areas in which they had misunderstandings.

Schools play a particularly important role in promoting sports. At present, under the primary school to Secondary Three curricula, there are only two physical education lessons of 30 to 40 minutes each per week, representing approximately 5% of the total teaching hours. My son has told me that he has less than an hour's physical education and there are only around 20 minutes time left after deducting the time taken for transit and changing, which is not enough even for warming up exercises.

The Report recommends specifying physical education as one of the learning areas for students, and increasing the number of physical education lessons to three lessons a week. It also recommends including the award of extra credit in senior secondary or tertiary entrance level examinations in recognition of outstanding performance in sports, and I think that it is worth supporting. Yet, to get at the root of the problem, we should work along both lines. While parents nurture children from childhood, the Government should train more outstanding sports experts, to cultivate the habit of sports among the younger generation.

The comprehensive development of sports should also cater for the needs of the disabled athletes. For instance, we should further provide more diversified public venues for them to participate in sports under the most convenient circumstances. The Report recommends the employment of full-time coaches for disabled athletes. It is absolutely necessary because the disabled athletes need special guidance and they would surely get twice the results with half the efforts given support by full-time coaches. If the Government would promote the idea that the abled and disabled are members of a family, and illustrate with the experience of the disabled that health is precious, the exchange between the abled and disabled would strengthen the cohesion of the community.

Employers should also bear the responsibility for promoting sports. For instance, they can consider the sports performance of applicants during recruitment, for so doing will encourage employees to play sports more and increase the overall productivity.

Madam Deputy, under the existing adverse economic circumstances, people's psychological health is seriously affected. Suitable exercise can definitely cheer them up and make them forget about their worries and relax for a while. Some people have said that Hong Kong people have become more and more violent tempered, and I believe promoting sports would definitely be helpful. With these remarks, I support the motion.

**MR FRED LI** (in Cantonese): Madam Deputy, the Report of the Sports Policy Review Team (the Report) discusses the three themes of promoting a sporting culture, providing assistance to athletes and improving sporting venues. I would like to present our views on behalf of the Democratic Party on these three themes.

In the chapter on "Promoting an Active Sporting Culture", six key areas for change are proposed as follows:

- (a) To take a more pro-active approach to promoting public sports programmes;
- (b) To design and manage venues in a more user-friendly manner;
- (c) To intensify the programme for establishing community sports clubs together with the national sports associations (NSAs);

- (d) To put greater emphasis on local-level participation in sport;
- (e) To organize more major international sporting events in Hong Kong so as to develop a strong local sporting culture; and
- (f) To establish a Sports Promotion Task Force in the Leisure and Cultural Services Department (LSCD) to co-ordinate sports development initiatives in a strategic manner.

THE PRESIDENT resumed the Chair.

The Democratic Party is very supportive of these six recommendations. We are also of the view that government efforts in the promotion of a sporting culture are not sufficient and it is essential that the function of community sports organizations in popularizing sports is recognized. The Report mentions that Sweden is one of the most advanced sporting countries in the world, one with the highest community participation rate. Of the 7 million people in Sweden aged between seven and 70, almost half belong to a sports club and about 2 million people actively take part in sports. It can thus be seen that sports clubs are pivotal to the promotion and popularization of sports. If we are to promote a sporting culture, we must rely on the assistance from non-governmental organizations which can rally strong strength. Moreover, popular participation in sports will help the selection of athletes with potential at an early stage for elite training and this will help raise both the quality and quantity of high-performance athletes. Therefore, we support the idea that the Government should formulate policies to help establish and develop local sports organizations.

Quite a number of community sports clubs, despite their ambitions to promote sports, are currently hampered by the lack of financial means or other constraints in manpower and resources. They are presently operating under very difficult conditions. What the Government should do is to provide financial assistance to these community sports clubs which are committed to the promotion of sports but do not have the resources to do so. The Government should also encourage and assist members of the public and local organizations to form sports clubs and expand the network of such clubs so that more people can be attracted to sports participation.



When the two Municipal Councils were dissolved, and it makes me feel sad to mention it again, the Government made a pledge in public that powers would be devolved and more resources allocated to the District Councils. Mr Michael SUEN was the executioner at that time. Please note with extra care that to date this pledge of enhancing the functions of the District Councils and devolving the powers to organize sports to the District Councils remains to be honoured. Now as the Government recognizes the importance of promoting sports at the district level, and as the District Councils are representatives of public opinion, playing a vital role in district affairs, the Government is obliged to devolve more powers and allocate more resources to the District Councils so that they can play a more active part in promoting leisure and sports activities.

The nurturing of a sporting culture must start at the tender age. The Report recommends that students should be provided with more sporting opportunities. I think that is a right direction to take. But for the proposal to realize, it must be supported by efforts made by the Education Department and the schools, plus the provision of resources and sports venues. We suggest that the Government should consider giving subsidies to schools in hiring coaches and meeting the other related expenses. Moreover, schools in Hong Kong share a common problem of the lack of sports venues. Although the sports venues administered by the LCSD are provided free of charge for use by schools, schools do not benefit much from this because of the tight schedule of lessons and the substantial travelling time spent between schools and these venues. Therefore, the Government should add more sports facilities to the "school villages" so that neighbouring schools can share these facilities among themselves. This will enable more students to use the facilities and raise the utilization rate of these venues and hence make better use of the resources.

On the recommendations to provide support to disabled athletes and improve the prospects of high-performance sports, the Democratic Party is of the view that despite the fact that the impression of local athletes in the eyes of the public has improved in recent years, the importance which the community attaches to athletes still compares rather unfavourably with that in other countries. Many young athletes in Hong Kong have made brilliant achievements in sports, but due to insufficient support from the Government and the community, some of these young athletes are forced to discontinue their training when they reach senior secondary school, for they have to prepare for the public examinations.

Some of these young athletes even abandon their specialty sports. This has a direct impact on raising the standards of our athletes, for training is often disrupted due to the need to prepare for public examinations. To rectify this state of affairs, we must further promote a sporting culture and improve the treatment given to athletes so that they can have brighter career prospects. Athletes should be further assisted in their pursuit of further studies and employment. We believe if this two-pronged approach is adopted, that is, promoting a sporting culture and improving the treatment given to athletes, then efforts in promoting sports at beginner's levels and the achievements of high-performance athletes will certainly benefit.

On the issue of sports venues, we have been making the criticism that there are flaws in the design of the Hong Kong Stadium. To learn from the past mistakes we must build another major sports complex to meet the needs of hosting local and international sporting events. As for indoor sports complexes, such as the Queen Elizabeth Stadium and the swimming pool at the Kowloon Park are all showing signs of ageing. Some of these venues even fail to meet international standards in competitive sports. Thus the Democratic Party agrees with the recommendation made in the Report that overall planning of the major sports venues in Hong Kong should be made. We would like to remind the Government again that when such planning is made, the lesson of the failure of the Hong Kong Stadium must be learned. In the building of a sports complex which will meet the needs of the long-term development of Hong Kong, reference should also be drawn from overseas experience and the professional advice of the NSAs should be sought. One last word, perhaps the LCSD may like to organize more sports activities for Members of the Council so that we can put in the best of our efforts to promote the popularity of sports. For if not, we are not sure if our health will still permit us to become Members of the Council in 2008 when another new term for the Council will commence.

I so submit. Thank you, Madam President.

**MR BERNARD CHAN:** Madam President, I am personally very keen on sport. I do two hours' exercise a day, and I find that it has a lot of positive effects on my life. So I was very pleased when I was invited to become a member of the Hong Kong Sports Development Board (SDB) in 2000.

I was hoping that the main priority at the SDB would be to encourage interest in sport, to encourage a sporting spirit and a pride in Hong Kong's sporting achievements. However, I found that, because of the whole environment that they are working in, there is more politics than sport in Hong Kong's sports-related organizations.

For that reason, I warmly welcome the Report of the Sports Policy Review Team (the Report). The Report contains a wide range of ideas and proposals. And it asks some thought-provoking questions about the role of sport in our community.

It asks: How can we encourage more people to make sport and physical exercise a part of their lives? How can we make public sports facilities easier and more inviting to use? How can we convince schools and parents to find time for our children to take part in sports?

Given the growing rates of obesity and heart problems among our school students and many adults in the population, these are major, health-related questions.

It also asks: Should we emphasize competitive sports, and the training of elites? Or should we focus resources on recreational sports for the rest of the population? Should we fund participants in individual sports, even though the public takes little interest in them? Or should we put resources into team events, which will gain more support among the wider community? When it comes to infrastructure, should we focus on large projects that will attract international events to Hong Kong? Or should we devote resources at the neighbourhood level?

Given that we have only limited resources, not to mention a government budget deficit, we must choose carefully how we use sports-related funding.

The Report raises other questions about provisions for disabled athletes, funding systems and the whole structure of our sports administration. These are all important questions. We cannot try to answer them today, but I look forward to a continuing public debate about them.

I would like to make some specific comments about the Report's discussion of the SDB of which, as I said earlier, I am a member.

The SDB was founded in 1990 and it absorbed the Sports Institute in 1994. It has come in for some criticisms at times in the media, in my view, unfairly. Since the release of this Report, the media have passed a death sentence on the SDB. This is premature. It has damaged the morale among the many good people working there, and I am sure that it is worrying many of their families.

The fact is that the staff at the SDB have a proud record of producing winners, and they should continue to do so. They have produced 48 medals in major games, including, of course, LEE Lai-shan's gold medal in the 1996 Olympics. Today, the SDB is accrediting coaches and disbursing funds to 55 of the Hong Kong's national sports associations (NSAs). And the Sports Institute is training over 300 athletes in 13 elite sports.

This Report suggests the establishment of a Sports Commission, and it proposes a new body to oversee sports funding. This would mean major changes to the SDB. I am open-minded about these proposals. I will support whatever works best. However, I do think that some of the comments in the Report about the SDB deserve a response.

I get the impression that in the past, the SDB may have been somewhat inefficient, and not sufficiently focused on its customers. But I must say that at the time when I have been a member, I have seen real efforts put into management restructuring and cost savings. Its administration costs today are around 6% of total annual expenditure, which is reasonable for an organization of that size.

The Report points out that not everyone is happy about the allocation of funds to NSAs. Well, frankly, that is inevitable. With limited funds, the SDB can never please everyone.

Indeed, I have been impressed by the care that goes into the process of vetting applications and allocating funds, in accordance with clear, objective criteria.

I know that some members of the SDB have serious reservations about certain parts of the Report. They are not convinced about the effectiveness of establishing a Sports Commission. And they are concerned that a new funding body for sports could lead to conflicts of interest. Or, if it were part of the Government, it could be bureaucratic and inflexible. They also wonder why the

Government has done a U-turn. In 1999, the Government decided that the best way forward was to give recreational sports to the Leisure and Cultural Services Department (LCSD) and development and elite training to the SDB. The Report seems to suggest that the two areas be somehow merged.

I should also add that there is recognition in the SDB that all stakeholders need to find ways to work together much better. The SDB, the NSAs, the LCSD and the Sports Federation and Olympic Committee all have different roles to play. But there is a problem with co-operation, and that needs to be fixed.

There is also a feeling that the Government builds sports facilities without sufficient regard for community needs, and it operates them with too little flexibility or commercial sense. The Report also raises this issue.

Madam President, as I said before, I am personally quite open-minded about many of the suggestions made in the Report. It covers a wide variety of issues, and it deserves to be discussed in depth in due course. I believe that many of the ideas in the Report will prove to be very useful.

**PRESIDENT** (in Cantonese): Mr CHAN, your time is up.

**MR BERNARD CHAN**: Thank you, Madam President.

**MISS CYD HO** (in Cantonese): Madam President, besides making us strong and healthy, I believe sport is most valuable in nurturing the sportsmanship of challenging oneself and continuously fighting. We can apply the spirit not only on the sports ground but also in daily life in which it could be a positive driving force. I can readily find two examples in this Chamber.

The first example is Secretary Michael SUEN who reminds me of Michael BALLACK of the German team. He is a freeman in the team, playing from his baseline to that of the opponent team. Secretary SUEN played extraordinarily well from the time he scrapped the two Municipal Councils until today when a sports policy is implemented. The second example is the United Nations (Anti-Terrorism Measures) Bill. We have come to the last minute of play, but some Members have still proposed amendments. Finally, Members have

successfully compelled the Government to accept our views at the last meeting today and make amendments. The whole process has been similar to the performance of the South Korean team in the World Cup Finals this year. When the goals scored were 3 to 1, they knew clearly that they would lose but they persisted until the last minute and scored another goal. Therefore, the sportsmanship is very precious and especially helpful to overcoming the existing plight of Hong Kong.

The consultation paper has discussed the polarized issue of sports-for-all and elite sports training, when there are merits in both. Sports-for-all can nurture sportsmanship. The youth would not only acquire the strength and motive to fight for victory, but also learn how to lose. It is most important for the youth to review their defeat, train up with great concentration for another competition as well as challenge their old selves and pursue perfection. Besides, sports are certainly good for the elderly. They would become healthier both physically and mentally, and the Government would be able to deal with the ageing population, with reduced demands for medical care.

Regarding elite training, it can provide the youth with a learning model and prepare Hong Kong well for hosting international sporting events, turning it into a business opportunity. Now that we have such objectives, how can we link up sports-for-all and elite sports in respect of the administrative structure and resource allocation?

In respect of sports-for-all at the district level, I hope the Government would let go and allow the District Councils to play a more important role. Actually, in promoting sports at the district level, the District Councils can be responsible for the management of sports venues, promoting sports-for-all with sports associations, inviting participation from schools in the districts and allowing nearby schools of smaller scale and without sports facilities to use the sports facilities in the district so as to make better use of resources. The District Councils and the sports associations may also jointly select athletes with potentials in district competitions and recommend these athletes for continuous training.

Yet, I do not understand why the Government is still unwilling to devolve more powers to the District Councils after scrapping the two Municipal Councils. The Government provides them with allowances and subsidies, but it is still reluctant to give them powers. I hope the Government would expeditiously make substantive efforts in this regard.

As regards the elite sports programme of the Hong Kong Sports Institute (HKSI), no changes have been recommended in the consultation paper, so it has indirectly affirmed the work of the HKSI which would continue to conduct elite training. However, I suggest that various sports associations should participate in the work of the HKSI to establish a partnership with the HKSI, otherwise, it would easily lead to compartmentalization as is the case now and discontinuity of efforts.

Actually, as regards the development of our sports policy, the most important recommendations made by the Administration are related to the administrative structure and resource allocation. Concerning the administrative structure, the Government has proposed three options. Though presented differently, they point in the same direction and their conclusion is to set up a Sports Commission, but they have proposed setting up a Commission of different scales. Firstly, it proposes setting up a Commission of the largest scale to replace the SDB (that is, scrapping the SDB). Secondly and thirdly, it proposes setting up a Commission of a smaller scale that would only play an advisory role without substantive powers. Regardless of how competent the Commission may be, it would only replace the SDB and take over its \$195 million funding as well as continue to utilize the funding to subsidize other sports items. The three options would only have one outcome. After scrapping the SDB, the Leisure and Cultural Services Department (LCSD) would still play a leading role. With the Government in charge of everything and officials playing leading roles, there is no question of promoting the development of sports policy in a healthy manner.

Let us take a look at the allocation of resources. It has been evidently stated in page 67 of the consultation document that the LCSD is given \$223.5 million funding annually while the SDB has only \$195 million and the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) \$3 million. A District Council has \$10.8 million and the Education Department has \$11 million for sports development in schools and districts. The LCSD takes up 90% of the annual expenditure of \$2.5 billion. Yet, the Commission in future may not be able to utilize the 90% expenditure. Thus, we really wish to ask what are the terms of reference of the Commission to be set up by the Government. If the Commission to be established would only be able to utilize the \$195 million funding, it would only take over the role of the SDB, and such a major "operation" would not be necessary. We might as well request replacement of the SDB staff who had made mistakes, were incompetent or involved in scandals, and revise their employment agreements.

Madam President, the biggest problem with the overall resource allocation is that officials lead the development of the sports cause and take up most of the resources, as a result, many enthusiasts in the NSAs are not given suitable assistance in development. Of course, we understand very well that the Government has a lot of worries and it fears that the fundings may be subject to abuse, the management may not be professional and supervision may not be transparent enough. Nevertheless, to solve these problems, the Government should first establish a highly transparent monitoring mechanism and allow the sports sector to act on their own.

Madam President, lastly, I wish to discuss the bidding to host the Asian Games. We have had heated discussion about this subject, but nobody talks about the issue any more after the last defeat. The Government promised to improve the sports facilities in the districts but I am not sure if it has taken any follow-up action. Thus, I wish to call upon the Government to set an example and realize its sportsmanship. It should not give up even though it lost the bidding. Conversely, it should conduct a review and expeditiously set up a multi-sectoral committee to make preparations for bidding to host the next Asian Games. The Government should also honour the promise it made the last time and improve the sports facilities in the districts as soon as possible. Thank you, Madam President.

**MR MA FUNG-KWOK** (in Cantonese): Madam President, the World Cup Finals that have just closed had aroused much enthusiasm among everybody in Hong Kong. Many people put their work aside and even the transaction in the stock market was affected whenever there were major matches. When we look at this phenomenon alone, it seems that people are generally very interested in and supportive of sports. But the result of a survey on the participation of people in sports conducted in consecutive years shows that that is not the case. On the contrary, most Hong Kong people are not willing to actively participate in sports. The concept that sporting day after day is good for health has long remained at the stage of publicity and there is a long way to go before everybody would actively participate in sports.

The Report of the Sports Policy Review Team (the Report) published by the Home Affairs Bureau is the first comprehensive review on the sports policy and administrative structure of Hong Kong since the Government published a



report on the forward-looking consultancy study on the development of sports affairs 14 years ago. One of the very important messages in the Report is to encourage more people to participate in sports and establish a culture of sports enthusiasm. The direction is entirely right. A lot of medical researches have indicated that more and more children in Hong Kong are obese and there has been an increase in heart disease cases among the middle aged. Our society has become rich but the physique of the public is not as strong, which is closely related to the low rate of people's participation in sports. How to encourage people to take the initiative to participate in sports to strengthen their physique, promote psychological health, relieve tension and pressure and improve the standard of living are the major objectives of our sports policy.

The Report recommends adopting more responsive and client-oriented policies in the management of our public sports venues and provision of diversified ancillary services. The proposals are perfectly fine but many public sports facilities in Hong Kong serve other cultural and recreational functions, for instance, the facilities of community civic centres can be used for sports such as Judo, and also for such cultural activities as drama and dancing. Concerning the management of such venues in future, would the Government focus on sports, cultural activities or other forms of community activities? In our discussions about sports policy, these venues are regarded as sports venues, but in our discussions about cultural policies, they are regarded as venues for cultural activities. As a result, these venues do not fully meet the requirements of sports or the professional requirements of cultural activities. Madam President, I wish to emphasize that the use of venues for different types of activities should not be exclusive. Yet, when we consider enhancing the participation and standard of the relevant activities, we should carefully consider their venue requirements and endeavour to meet them. Therefore, in respect of additional public sports facilities, I hope the Government would not go after beautiful outlook at the expense of meeting the professional demands of various activities which are unique, as it did in the past.

Actually, the direction of development of venue-based clubs as stated in the Report merits support. Yet, to develop venue-based clubs, explicit policies must be formulated for venue design and management. Nevertheless, the Report has given this little coverage. Besides proposing a review on uniform charges for venues and increasing other non-sport ancillary facilities, the Report has mentioned little about improving venue design and management policy, and even less about improving the lack of venues for NSAs.

In fact, the Administration should hand over to the NSAs the authority of management of some venues that are up to standard so that the NSAs would have permanent fixed professional venues. With this, they would be able to deepen their training initiatives while bettering the promotion of their respective sport. With a lack of venues that are up to standard, how can we expect the NSAs to carry out different forms and levels of sports promotion step by step? The Report recommends vigorously promoting community sports clubs, but while the Administration considers the promotion of community sports, it should allow NSAs to play a key role in promoting sports and allow district sports associations to engage in development of specialty sports so that better achievements would be attained on top of sports-for-all.

Madam President, sports in school are indispensable to achieving the objective of sports-for-all. Disregarding the fact that top athletes have to be trained from childhood, merely in terms of keeping us healthy and strong, whole-man development and sports culture, the physical education (PE) subject should not be neglected. I do not have comments on whether there should be additional PE lessons, but I think the key to promoting sports in school is to improve the quality of the PE subject and the importance attached to it by parents and students.

The idea of creating quality sports facilities in school villages is worthy of support. In the example of the construction of a small baseball pitch for children by the Ma On Shan Shun Yeung Primary School with funding from the Quality Development Grant, the baseball pitch has become an important venue in the district for the promotion of baseball. Besides its school team, the joint school teams and school teams in the district have conducted training in the venue. This example illustrates that school villages would facilitate the integrated development of sports facilities and this direction of development would be feasible and desirable.

Madam President, in respect of professional development, the Hong Kong Sports Development Board (SDB) has played an active role but its performance in management has been far from satisfactory. Moreover, its resource allocation function has given rise to conflicts about uneven distribution in the sports sector. When the Government considers its retention or abolition, it should first consider how to make long-term arrangements for division of labour in relation to sports funding and elite training policy before drawing a final conclusion. Otherwise, the abolition of the SDB may not necessarily solve the

problem of uneven resource allocation. It would only elevate the problem to a higher level and deny professional training assurance. In this respect, there is no clear elaboration on the Sports Commission proposed to be established.

Madam President, the former Secretary for Home Affairs has stated in the Foreword of the Report that it is the Administration's intention that this report should form the basis for drawing up a detailed strategic policy for sports development over the next five to 10 years. I wish to say that sports policy should be a continuous and long-term policy. When we consider developing a sports policy, we should not restrict our vision to the next five to 10 years. Only a forward-looking and strategic policy, matched by an administrative structure with a clear mandate would be able to promote public participation in and support for sports affairs and achieve the ultimate objective of towards a more sporting future.

I so submit. Thank you, Madam President.

**MRS SELINA CHOW** (in Cantonese): Madam President, actually, I am not familiar with sports and I am a layman, but I believe the recommendations in the Report of the Sports Policy Review Team (the Report), which comprise a comprehensive review on the sports policy, are constructive. But I am a bit disappointed because the Hong Kong Tourism Board (the HKTb) was not consulted. We cannot blame the Team in charge of the Report because few people would discuss tourism and the sports policy together. However, when we give the matter a little more thought, we actually find that they are very closely related to each another.

I have some personal interest in sports, but I would come back to this point later. I would like to discuss tourism first. In recent years, the HKTb wished to promote Hong Kong as a city of international events, and such events certainly include well-known world sports contests such as the Formula One Championship races, World Cup Finals and Olympic Games that everybody is familiar with. Yet, Hong Kong is not eligible for applying for rights to host some first-rate world-class sporting events in terms of venues or overall scale. Nevertheless, we are eligible for applying for rights to host certain contests. In recent years, Malaysia has held a Formula One Championship race and attracted a lot of tourists from abroad. The Malaysian authority built Kuala Lumpur as an internationally reputable motor racing centre in Asia, and attracted tourists

including the Honourable James TIEN sitting next to me who loves motor racing. He visits Malaysia almost every year for sight-seeing and as a spectator at the motor race. Of course, Macao has hosted similar races but the scale of the races hosted by Macao is smaller than that of Malaysia. If Hong Kong wishes to host such contests, it should target at hosting the Formula One Championship races.

However, hundreds of millions dollars would be incurred on hosting such a race, and it also depends on the co-operation and support of the community as well as other matching actions such as application for permits and constructing roads for motor races. The hosting unit must have great determination and commitment and the race would not only be held in a year or once. From the perspective of the tourism industry, holding such a race once would not be able to attract tourists. Hence, if Hong Kong wishes to host international sporting events, we must consider a more strategic approach. I wish the relevant parties would further consider the matter when studying the Report.

Besides these first-rate international events, there are many fairly attractive activities in the international arena. For example, Hong Kong has hosted two sporting events very well; one of them is the Seven-a-Side Rugby. For many years, Hong Kong has hosted the event, which was organized by non-government bodies at the very beginning, and now the Government has participated in hosting the event. The HKTb also supports the event but the support is inadequate. However, the event itself really attracts a lot of foreign tourists to Hong Kong. More than half of the spectators in the Hong Kong Stadium are foreigners but not Hong Kong people. These tourists would mark in their planner each year when they would come to Hong Kong for the matches. It affirms the significant contribution made by international competitions to the tourism industry.

Another sporting event is certainly the marathon race. Although Hong Kong has hosted the marathon for several years only, some foreign athletes will come to Hong Kong to participate in the race and they drive the participation of more than 10 000 local athletes. It reflects the effects of sports meets on Hong Kong and our international image. Since the race is held in Hong Kong, so from the viewpoint of the tourism industry, if the race were broadcast live on television, the special scenery of Hong Kong would be displayed to foreign audiences. However, foreign audiences would not consciously feel the effects and they would only see that Hong Kong has a beautiful environment, a certain

bridge is magnificent or a certain road is rather special. Actually, we are softly marketing Hong Kong that way. Thus, the tourism industry takes the view that it is worthwhile to host such sporting events. Some athletes who come to Hong Kong may bring tens of thousands of supporters who are also tourists. The hosting of international contests must achieve a certain status and to this end, it requires complementary venues, commitment on the part of the host and a great measure of co-ordination. I wish the Government would try its best to offer assistance in this respect.

I would quickly touch upon some sporting events that I think Hong Kong would be able to develop, firstly, water sports including a yacht race because it would be able to display the scenery of the Victoria Harbour; and secondly, golf. I heard that tens of thousands of Hong Kong people will leave Hong Kong for Guangdong to play golf every weekend. If we develop this sport, and provide the complementary venues and facilities, we must be able to attract a lot of tourists to Hong Kong. Thirdly, dancing. I believe I have to discuss dancing in future but I am sure it is a very attractive sporting event.

Thank you, Madam President.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, in the past month, everybody in Hong Kong was intoxicated with the fervour for the World Cup Finals. But when people admired the fantastic football matches, had they thought why the Chinese, Japanese and Korean teams had made rapid progress in recent years and finally broken out of Asia and entered the world arena while the Hong Kong team that had once been all-powerful in Asia had not made any improvement in technical standard for decades, failed to keep up with the times and was even slowly left behind by the world trend?

Of course, there are numerous reasons but there is overlapping of work under the sports administrative structure and a lack of a strong and powerful co-ordinating body. Various organizations are acting on their own and the wastage and improper application of resources are inevitable, which have virtually impacted substantively on the effectiveness in promoting sports and training elite athletes.

Accordingly, I met several sports organizations and enthusiasts in sports development in 1999 to understand their views and ideas. After summing up their views and ideas, I worked out proposals for reorganizing the sports

structure and submitted them to the then Home Affairs Bureau. It is gratifying to note that the structural reorganization proposed by the Sports Policy Review Team under the Home Affairs Bureau in May this year are very similar to the proposals I made at that time. In particular, it has recommended to establish a single body to be in charge of the overall policy, planning, co-ordination and monitoring of sports development to address the existing overlap. Thus, I in principle support some of the recommendations of the review.

As to how the reforms should be implemented, the Report of the Sports Policy Review Team (the Report) has set out three proposals in detail and stated in a fine-sounding way that a final decision would only be made after listening to the public's views. However, the Report is obviously tilted towards certain proposals for it is determined to dissolve the Hong Kong Sports Development Board (SDB), the motive of which is evident to all. I do not disagree much with scrapping the SDB, but I think the Government must implement the proposals with a fair hand in strict adherence to the principle of impartiality.

Actually, the SDB has an annual expenditure of almost \$200 million, so if it is not appropriately spent, it is a very serious wastage of public money indeed. However, the Leisure and Cultural Services Department (LCSD) spent more than 10 times the SDB amount, a total of more than \$2.2 billion on sports and recreational activities annually. In other words, it controls 90% of the resources for sports development. Yet, taking an overview of the Report, it seems that nothing has been mentioned about how this amount of public money and the enormous resources can be appropriately utilized on promoting local sports development, needless to say conducting a thorough reform.

Actually, we know very well about the performance of the LCSD especially in respect of the utilization of venues. The LCSD controls the management of an absolute majority of sports venues in Hong Kong and spends a lot of public money on this every year. But it is a pity that the result is not satisfactory. It is mainly because of a rigid system for the hire of venues, insufficient catering for the training needs of athletes and the failure to observe the user friendly principle. As a result, cases continuously arise in which athletes do not have venues or venues are not used by anybody. It not only wastes public money but also impedes the development of athletes. Evidently, specialty sports need bases for elite training. Therefore, I suggest the LCSD should entrust to sports governing organizations (NSAs) the management of venues so that each NSA would have a training base. The NSAs should be given priority to hire specific training bases but they must pay the relevant fees

and ensure that the arrangement would not jeopardize the rights of the public to use the venues. A more thorough method is to brief out to the NSAs all existing venues for management and collect fees on a self-financing basis.

Concerning sports promotion, a more satisfactory arrangement is for resources to be provided by the Government and co-operation among professional sports bodies, District Councils or district bodies. While leadership by experts would really achieve the objective of sports promotion, the participation by members of the sector would be helpful to identifying early athletes with potentials in the process.

If the Government wishes to strengthen sports development in Hong Kong and improve the standard of elite athletes, it must confirm that the NSAs would play a leading role in this and achieve the objective of devolving resources to a lower level and division of power and responsibilities. Elite training is also indispensable. After scrapping the SDB, the relevant work would be handed over to the Hong Kong Sports Institute (HKSI). To ensure that athletes with potentials can be exposed to an excellent training environment since childhood and concentrate on achieving results to win glory for Hong Kong, the Government should hand over the administration of the Jockey Club Ti-I College in Sha Tin originally under the Education Department to the HKSI. It should also turn the Ti-I College into a boarding school so that this school, which is specifically built for training students with sports potentials, can free itself from the constraints of traditional schools and have greater flexibility in meeting the training needs. Furthermore, to ensure that students would not overlook performance in other subjects while concentrating on sports, the Government should allocate more resources for the provision of high standard teachers and facilities in order that the Ti-I College could develop into a reputable school that attaches importance to sports training as well as academic education.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, first of all, I would like to thank Mr IP Kwok-him for moving a motion debate on the

Report of the Sports Policy Review Team (the Report), and I would like to thank Honourable Members for expressing their views on the motion. I believe Honourable Members and the Government share the same objective, that is, all of us wish to promote the long-term development of sports in Hong Kong.

Many Honourable Members mentioned that the recent World Cup Finals have stirred up a sensation in town. From the onlookers gathering in the streets to watch the live telecast and topics of after-meal conversations, it seems that most people are interested in sports. However, why is the participation rate of Hong Kong people so low? What has actually gone wrong? Sport is an essential element of life. In fact, every action of our arms and legs involve motion of our bodies. Just because motion is that simple, people tend to neglect the importance of sport. Therefore, the Report is entitled "Towards a More Sporting Future" because we intend to awaken the awareness and yearning for sport of the entire community.

We understand that we should pool the wisdom and efforts of everyone and solicit opinions extensively on the promotion of sporting activities, and to work out a policy that meets the needs of society. Therefore, last year we decided to conduct a comprehensive review on the sports policy of Hong Kong. Our objective is to formulate strategies to assist the community of Hong Kong in establishing a keen sporting culture, encouraging elite athletes in their pursuit of sporting excellence, and uplifting Hong Kong's international sporting status, with a view to gaining more recognition and creating new opportunities for economic growth. In the course of the review, we have discussed the matter thoroughly with the sports sector, visited several overseas countries and the Mainland and studied their experience. Therefore this Report has gathered views from various parties. After the Report is published, we have listened to views from all walks of life, including the Panel on Home Affairs of the Legislative Council, District Councils, the Hong Kong Sports Development Board (SDB), the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC), sports governing organizations (NSAs), districts sports associations (DSAs), coaches and athletes. So far, we have gathered views in the following six areas:

The first is promoting mass participation in sport. Views gathered from all sectors recognize the importance of promoting mass participation in sport and support the Government in building a sporting culture. The Leisure and Cultural Services Department (LCSD) will organize and promote a wider range



of programmes in each and every district, and enhance its efforts in the promotion of certain popular programmes such as the Young Athlete Training Scheme and the Healthy Exercise for All Campaign extensively. On the other hand, the Report recommends expanding the network of community sports clubs, and hopes the LCSD will co-operate with various NSAs in the setting up of venue-based community sports clubs, in order to encourage wider public participation in organized sport. This recommendation has won the recognition of many people and it is expected that the needs of people in various age groups would be taken care of, so as to achieve the goal of Sport-for-All.

Furthermore, the Report suggested that DSAs in their respective districts should see greater participation in the promotion of district-based sporting activities. Since these associations have considerable experience and local knowledge and can work in partnership with the District Councils and other agencies to help foster district identities through sport. Most people opine that the District Councils and DSAs can play a more active role in the promotion of mass participation in sport. As for organizing district-based and inter-district programmes and competitions, DSAs in their respective districts have years of such experience, it is believed that these DSAs would enhance such participation and might further join hands with the LCSD in organizing major games in the 18 districts.

I would like to highlight that the Home Affairs Department (HAD) provides over \$10 million on a yearly basis to the 18 District Councils for organizing and subventing sporting activities in the districts. We will keep on enhancing district-based activities through the District Councils.

The second is sports for students. In order to cultivate among the public a lifelong interest in sports, we consider it necessary to start in schools. In the past, most of the public feared that sports participation by students could affect adversely their academic achievement, but the fact was just the opposite. Research shows that students with more confidence in their academic performance were the group with stronger motives for involvement in sports and physical activities. Sport can help to develop confidence and social skills in school-age children. In addition, involvement in organized sporting activities promotes leadership skills and encourages young people to volunteer their time to collective effect. Taking part in sports from an early age fosters among young people an ability to face challenges. Over time, it may well enhance social cohesion.

The Report has also made some proposals on encouraging students to participate in sporting activities and enhance their interest in sports. We should encourage all schools to adopt a more focused approach in the development of student sport activities, so as to allow students to have more time in participating sporting activities, such as increasing the number of physical education sessions in the curriculum from two per week to three. With regard to this proposal, there are different views in society, and schools are particularly concerned about the practicability of the proposal. We will study a practical approach with the Education Department so that we may put the above proposal into practice, with a view to making students understand better the importance of sports and establish a habit of doing exercise.

The proposal of further expanding the scope of the School Sports Programme is generally welcomed, as the public considers it may help schools to solve the problem of inadequate resources for sports promotion. The proposal of setting up a Student Sport Co-ordinating Committee is generally welcomed by the public, so that various programmes can be expanded effectively.

The Report has also made a series of proposals to facilitate students in using sports facilities, which includes encouraging students to use sports facilities in schools at their leisure times, providing more sports facilities in school villages; using more of public venues through the LCSD's free use scheme. Furthermore, the planning of new sport venues should embody more co-ordination with educational facilities as far as possible.

The third is high-performance sports. In recent years, under the support of the sports sector, performance of local athletes has improved persistently. In spite of this, we still find that there is still room for improvement as far as high-performance sports is concerned, which may enable athletes to fight for better results.

In order to explore ways to improve the existing provision of training bases for our elite athletes, the Report has proposed upgrading the Hong Kong Sports Institute (HKSI), more utilization of LCSD venues as training bases, and co-operation with tertiary education institutions for the use of their facilities as "satellite" training bases for top athletes. The Report has also proposed providing support for sports science and medicine, as well as strengthening the training of coaches. Education and career development for high-performance athletes is another major concern of many people. As a result, the Report has

proposed drawing up a comprehensive Athletes' Plan to provide financial, educational and career guidance support to people who wish to become full-time athletes and to provide a clear commitment to investing in athletes who have the potential to achieve excellence in sport.

As to disabled athletes, we should keep on providing them with support, such as hiring full-time coaches to co-ordinate the training of disabled athletes; in the design of new public sports facilities, particular consideration should be given to the provision of facilities that meet the training needs of disabled athletes, and continued recognition should be given to the achievements of disabled athletes.

The fourth is the planning, design and management of public sports venues. The Report considered Hong Kong should have an international standard stadium so as to create an environment within which all Hong Kong people can achieve their sporting objectives, which will make the hosting of major international sporting events in Hong Kong possible. In view of the fact that the Hong Kong Stadium is subject to all sorts of noise pollution and traffic restrictions, its function is not fully brought into play and the utilization rate is low, we suggest that we should look into the feasibility of building a new stadium in South East Kowloon as a replacement venue for the current Hong Kong Stadium. This proposal is widely welcomed. With regards to the future use of the Hong Kong Stadium, a separate study in detail will be conducted.

In regard to the provision of public sports venues, we recommend the approach of co-operation between the public and the private sectors, so as to increase the participation of the private sector. Besides drawing support from the experience of private organizations, the financial arrangement can also enjoy more flexibility. Modes of co-operation under examination include build-operate-transfer arrangement, or the Government and the private sector jointly financing the construction of the venue.

The LCSD currently has 500 Leisure Services Managers who are holders of diplomas in amenities management, thus they have the professional knowledge. Subsequent to the merger of the Amenities Officer grade and Sport Officer grade in the LCSD, the planning, design and management of public sports venues should be more strategy-based and custom-based, in order to cater to the preferences and needs of the public.

The fifth is the public funding of sports. The Report has recommended reviewing the mechanism and criteria in subventing NSAs with a view to achieving the principle of equality. There is also a need for a reassessment in the selection of focus sports. As the role of different funding bodies lacks clarity currently, it is desirable and more cost-effective to have one single funding body. Moreover, most people are of the view that the procedures of funding allocation to the NSAs should be streamlined with a view to improving efficiency.

I do not agree with the criticisms just now made by some Members on the Report's funding arrangement. Actually, up to this moment, sports organizations support the idea of rationalizing the funding procedures and establishing one single funding body. We hope the Sports Commission to be set up in future will advance strategic proposals in this respect, so that this single funding body may implement the proposals. It will be a crystal clear arrangement.

The Report has also proposed to redeploy the current overall recurrent allocation of \$2.43 billion for sport and recreation so as to ensure the resources are effectively deployed. At present, 92% of this allocation goes to the LCSD for the management of thousands of recreational venues and the promotion of Sport-for-All programmes, so as to facilitate more public participation. In order to enhance the cost-effectiveness of the services, the LCSD will adopt measures in various aspects, which include expediting the outsourcing of venue management, promoting the participation of private sector companies in the pilot programmes concerning design, construction and operation of sports venues, as well as considering the seeking of commercial sponsorship for the events they may organize. We hope to use part of the resources for sports development by means of the aforementioned measures. In the long run, we should explore more resources for the promotion of sports development.

Certain Members stated that they were in opposition to the proposal on Sports Lottery. In fact, many countries which are highly developed in sports activities have adopted the sports lottery mode to finance sports activities, and such countries include Sweden, Denmark, the United Kingdom and the Mainland. Since we are in financial straits, it is indeed necessary to consider tapping other resources. The Report mentioned the initial idea of drawing on additional resources for sports development through the issuance of Sports Lottery, and the objective was to seek more resources for future sports development. There is

actually no big difference between the Sports Lottery mentioned in the Report and many other lottery activities organized to raise funds for charitable purposes. Besides, there is substantial support from the sports sector for the proposal.

The sixth is the sports administrative structure. There are two major problems with the current sport administrative structure in Hong Kong, that is, the absence of a clear co-ordination mechanism, and perceived overlap and a lack of clarity in the delineation of responsibilities between the LCSD and the SDB. The Report has therefore recommended the establishment of a Sports Commission to co-ordinate and oversee the implementation of the policy for sports development. The Report has proposed three options on the establishment of a Sports Commission, firstly, to upgrade the SDB to a Sports Commission; secondly, to establish a new Sports Commission; thirdly, to dissolve the SDB and establish a Sports Commission. The Report has pointed out that the third option is more desirable. Up to now, the recommendation of establishing a Sports Commission with the third option has gained general acceptance.

I must emphasize that no matter which option is adopted in the end, we assure that it will not affect the support to athletes, and we will make sound arrangements for the staff of the SDB in order to maintain their job security.

We have received a lot of specified proposals on the composition and operation of the Sports Commission. Some people considered the Sports Commission should be vested with solid powers. However, the question of whether the future Sports Commission is responsible for strategic or administrative work remains to be further considered. I only wish to point out that if the future Sports Commission has to perform strategic as well as enforcement work, the problem of the existing structure will repeat once again. Our initial idea is that the Sports Commission will be a higher-level agency similar to the Education Commission. However, we will go on listening to views and considering them in detail before coming up with a decision.

With regard to the composition of the Sports Commission, we do not have any specific ideas, but it should include representatives from the sports sector in order to have their views fully represented. Since the consultation is still ongoing, I expect the public will keep their discussions about this issue going.

This is a time of challenges and opportunities, especially Beijing will host the 2008 Olympic Games, which is an occasion of enormous import to both our

country and Hong Kong. Therefore, I think it is the time we conducted a comprehensive review on sports policy.

When the consultation period ends on 31 July this year, the Government will sort out the views collated during the period and amend the recommendations of the Report according to these views. Then we will draw up specific plans for implementation. Finally, I would like to reiterate that the Government has no intention to monopolize sports activities in Hong Kong, as it is everybody's business. Public views are very important, and we will carefully consider the views put forward by the public, in order to reflect the genuine needs of the community in our future work. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, you may now speak in reply. You still have 35 seconds.

**MR IP KWOK-HIM** (in Cantonese): Madam President, I am very honoured to have been entrusted by the Panel on Home Affairs to move this motion. Today 17 Members have spoken and expressed their views on the future structure of sport in Hong Kong, the administrative structure, elite training, venues and facilities, allocation of resources, promotion of sports activities and sports education in schools. I believe government officials, such as the Director, Mr LEUNG Sai-wah, have now a very clear idea of Members' views.

Today, the newly appointed Secretary for Home Affairs is not able to attend the meeting, and that leaves something to be desired as far as this motion is concerned.

**PRESIDENT** (in Cantonese): Mr IP, your speaking time is up.

**MR IP KWOK-HIM** (in Cantonese): Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr IP Kwok-him be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): Members, it is now eighteen minutes to eleven o'clock. I consider that it is unlikely that the business on the Agenda can be finished by midnight. For this reason, I now suspend the Council until 2.30 pm tomorrow.

*Suspended accordingly at eighteen minutes to Eleven o'clock.*

**Annex I****WRITTEN ANSWER****Written answer by the Secretary for Home Affairs to Mr IP Kwok-him's supplementary question to Question 2**

We have inquired the overseas Hong Kong Economic and Trade Offices about accident insurance protection provided for district councillors of the respective countries in the discharge of official duties. The information obtained is set out in the Appendix. However, as the roles and functions of district councils in other countries or regions are different from those of the District Councils of the Hong Kong Special Administrative Region, it would be inappropriate to make direct comparison with our District Councils.

The Government is considering whether the expenses incurred in accident insurance taken out by District Council members against injuries sustained in the discharge of official duties should be reimbursable under the Operating Expenses Allowance. The Home Affairs Department will attempt to finalize the review as soon as possible and keep District Councils informed of the results.

**Appendix****Protection in Respect of Injuries Sustained in the Discharge of  
Official Duties by District Councillors in Other Countries***Australia*

District councillors are not government employees. However, like other workers, councillors injured on duty are covered by workplace compensation.

*New Zealand*

District councillors are not government employees. Like all other workers in New Zealand, they are covered by accident insurance. However, they have to pay for their own premiums.



**WRITTEN ANSWER** — *Continued**United Kingdom*

District councillors are not compensated for injuries sustained in the discharge of official duties unless they have taken out their own accident insurance. Some councils, however, take out personal accident insurance for their members which covers only permanent disability arising from the discharge of official duties.

*United States*

Like government employees, district councillors enjoy the protection of employees' compensation insurance.

**Annex II****WRITTEN ANSWER****Written answer by the Secretary for Home Affairs to Mr CHAN Kwok-keung's supplementary question to Question 2**

According to information provided by the 18 District Council Secretariats, three District Council members have been attacked since the implementation of the District Administration Scheme in 1982. Whether such cases were related to the discharge of official duties of the victims remains unconfirmed.

**Annex III****WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Mr Tommy CHEUNG's supplementary question to Question 3**

Between 10 June and 15 July, a total of 1 662 Fixed Penalty Notices (FPNs) were issued by seven enforcement departments. Apart from the 1 586 FPNs issued by the Food and Environmental Hygiene Department, the numbers of FPNs issued by the other six departments are shown below:

	<i>Number of FPNs Issued</i>
Environmental Protection Department	3
Marine Department	6
Housing Department	3
Agriculture, Fisheries and Conservation Department	47
Leisure and Cultural Services Department	3
Hong Kong Police Force	14

In general, the departments did not encounter any enforcement difficulties during the above period.

**Annex IV****LAND REGISTRATION (AMENDMENT) BILL 2000****COMMITTEE STAGE**Amendments to be moved by the Secretary for Housing,  
Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
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1(2)	By adding "Housing," before "Planning".
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New	By adding -
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**"1A. Copies of documents etc.  
admissible in evidence**

Section 26A of the Land Registration Ordinance (Cap. 128) is amended by adding -

"(3) For the avoidance of doubt, it is hereby declared that nothing in this section or any other provision of this Ordinance shall require the Land Registrar or a person mentioned in subsection (1) to provide a certificate mentioned in that subsection in relation to any copy, print or extract of or from any instrument, including any copies, prints or extracts of or from the memorial and plans (if any) relating thereto, withheld from registration pursuant to the Land Registration Regulations (Cap. 128 sub. leg.).".

2	By deleting "of the Land Registration Ordinance (Cap. 128)".
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ClauseAmendment Proposed

Schedule (a) By adding immediately after section 44 -

**"Antiquities and Monuments (Declaration  
of Historical Buildings) (No. 2)  
Notice 2000**

**44A. Declaration of historical  
buildings**

Paragraph 1(b) of the Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2000 (L.N. 368 of 2000) is amended by repealing "Tsuen Wan New Territories".

**Antiquities and Monuments (Declaration  
of Historical Buildings) Notice 2001**

**44B. Declaration of historical  
buildings**

Paragraph 1(a), (b) and (c) of the Antiquities and Monuments (Declaration of Historical Buildings) Notice 2001 (L.N. 272 of 2001) is amended by repealing "Yuen Long New Territories".

(b) In section 46 -

(i) in paragraph (q), by deleting the full stop and substituting a semicolon;

(ii) by adding -

"(r) in subparagraph (as), by repealing  
"Tsuen Wan New Territories";

ClauseAmendment Proposed

- (s) in subparagraphs (at), (au) and (av), by repealing "Yuen Long New Territories".
- (c) In section 63 -
  - (i) by deleting paragraph (a) and substituting -
    - "(a) in paragraph (1) -
      - (i) by repealing "An instrument" and substituting "Subject to paragraph (1A), an instrument (including a copy thereof)";
      - (ii) by repealing subparagraph (b) and substituting -
        - "(b) contain, where practicable -
          - (i) in the case of an individual signing the instrument -
            - (A) his identity card number if he is the holder of an identity card;
            - (B) in any other case, particulars of a travel document of which he is the holder;

ClauseAmendment Proposed

(ii) in the case of a company executing the instrument -

(A) the number by which it is registered under the Companies Ordinance (Cap. 32);

(B) if that Ordinance does not apply, particulars of its incorporation or establishment sufficient to identify the company;";";

(ii) by adding -

"(aa) by adding -

"(1A) A copy of an instrument may only be delivered for registration instead of the instrument if -

(a) the instrument belongs to a class of instruments specified in column 1 of Schedule 3 and the

ClauseAmendment Proposed

copy is certified, by the person or in the manner, if any, specified opposite thereto in column 2 of that Schedule, to be such a copy; or

- (b) the Land Registrar so permits in writing and the copy is certified, by a person or in a manner satisfactory to the Land Registrar, to be such a copy.

(1B) The Land Registrar may, by notice published in the Gazette, amend Schedule 3.";

- (ab) in paragraph (2), by adding "(or a copy thereof)" after "instrument";".

- (d) By adding -

**"64A. Keeping of temporary index**

Regulation 11 is amended by repealing "or register card".

- (e) In section 67 -

- (i) in the proposed regulation 15 -



ClauseAmendment Proposed

(A) in paragraph (1), by deleting ", subject to paragraph (6),";

(B) in paragraph (2) -

(I) in subparagraph (a), by deleting "and";

(II) by adding -

"(aa) keep a copy of the instrument, together with copies of the memorial and plans (if any) relating thereto, in such form and by such method as the Land Registrar thinks fit; and";

(C) in paragraph (4)(b), by deleting "and subject to paragraph (6)";

(D) by adding -

"(4A) The Land Registrar may destroy or otherwise dispose of any copy of an instrument kept under paragraph (2)(aa), together with copies of the memorial and plans (if any) relating thereto so kept -

(a) if the instrument -

(i) is redelivered for registration; or

ClauseAmendment Proposed

- (ii) is registered;  
and
    - (b) in such manner as the  
Land Registrar thinks  
fit.";
  - (E) in paragraph (5), by deleting "and (4)"  
and substituting ", (4) and (4A)";
  - (F) by deleting paragraphs (6) to (12);
  - (ii) by deleting the proposed regulation 15A.
- (f) By deleting section 72(a) and substituting -
  - "(a) by repealing subparagraph (a)(i) and  
substituting -
    - "(i) recorded on microfilm, by  
supplying a copy thereof in the  
form generally known as a  
reader-printer hard copy;"
  - (aa) by adding -
    - "(aa) in the case of an instrument,  
together with the memorial and  
plans (if any) relating thereto, to  
which regulation 15(2)(aa) applies  
and the registration of which has  
not been completed, by supplying  
the latest copy of the instrument,  
together with the latest copies of  
the memorial and plans (if any),  
kept under that regulation in such  
form and by such method as the  
Land Registrar thinks fit;"

ClauseAmendment Proposed

(g) By adding -

**"73A. Schedule 3 added**

The following is added -

"SCHEDULE 3

[reg. 9]

**CLASSES OF INSTRUMENTS FOR WHICH  
CERTIFIED COPIES MAY BE  
SUBMITTED FOR  
REGISTRATION**

Column 1	Column 2
Class of instrument	Person who may certify copy of instrument and/or manner of certification
Certificate of Incorporation on Change of Name issued by the Companies Registry	Registrar of Companies of Hong Kong, a person authorized in writing by him or a solicitor
Death Certificate issued by the Births and Deaths Registry	Registrar of Births and Deaths of Hong Kong or a person authorized in writing by him
Certificate of Exemption from Estate Duty issued	Commissioner of Estate Duty of Hong Kong or a person

ClauseAmendment Proposed

by the Estate Duty  
Office

authorized in  
writing by him

Certificate of  
Receipt of Estate  
Duty issued by the  
Estate Duty Office

Commissioner of  
Estate Duty of Hong  
Kong or a person  
authorized in  
writing by him

Probate granted by  
the High Court

Registrar of the  
High Court or a  
person authorized in  
writing by him

Letters of  
Administration  
granted by the High  
Court

Registrar of the  
High Court or a  
person authorized in  
writing by him

Occupation Permit  
issued by the  
Building Authority

Director of  
Buildings of Hong  
Kong or a person  
authorized in  
writing by him

Power of Attorney

Solicitor

Letter of  
determination or  
rescission of an  
agreement for sale  
and purchase

Solicitor

Notice of  
discontinuance of  
court action

Solicitor

ClauseAmendment Proposed

Notice of severance      Solicitor  
of joint tenancy

Memorandum or      Nil  
Letter of  
Compliance of  
conditions precedent  
in Government  
Grant issued by the  
Lands Department

Notice or Letter of      Nil".".  
Compliance issued  
by the Building  
Authority  
confirming building  
works have been  
completed or  
building orders have  
been complied with

- (h) By deleting the subheading before section 89.
- (i) By deleting section 89.
- (j) In section 91, in paragraph (b), by deleting "item 2" and substituting "items 2, 3 and 4".
- (k) By adding -

**"Caritas - Hong Kong Incorporation Ordinance**

**106. First Schedule amended**

The First Schedule to the Caritas - Hong Kong Incorporation Ordinance (Cap. 1092) is amended -

ClauseAmendment Proposed

- (a) in item 8, by repealing "Tuen Mun District Land Registry by Memorial No. 197963" and substituting "Land Registry";
- (b) in item 9, by repealing "Tsuen Wan District Land Registry by Memorial No. 82418" and substituting "Land Registry".

**Kadoorie Farm and Botanic Garden  
Corporation Ordinance**

**107. Property to vest in  
the Corporation**

The Schedule to the Kadoorie Farm and Botanic Garden Corporation Ordinance (Cap. 1156) is amended, in paragraphs 1 and 2, by repealing "Tai Po District".

**Annex V****FIRE SAFETY (BUILDINGS) BILL****COMMITTEE STAGE**Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
5(1) and (2)	By deleting "技術和工藝" and substituting "科技".
5(4)	By deleting "or part of a building".
5(9)	(a) By deleting "of the building or part of a building" where it first appears.  (b) In paragraph (a), by deleting "該建築物或該" and substituting "有關的建築物或建築物的".  (c) In paragraph (b), by deleting "技術和工藝" and substituting "科技".
5(10)	(a) By deleting "may establish a committee" and substituting "must establish a committee (referred to in this section as "advisory committee")".  (b) By deleting "技術和工藝" and substituting "科技".
5	By adding -

"(11) Only the relevant enforcement authority may refer a case to the advisory committee for advice.

ClauseAmendment Proposed

(12) The advisory committee may, before giving advice on any case referred to it, receive representations from an owner of a building to whom the case is related.

(13) Where advice has been given by the advisory committee, the relevant enforcement authority must take into consideration such advice before determining under subsection (1) or (2) what, if any, measures in place of any of the requirements in Schedule 1 or 2, as the case may be, would be appropriate."

6(1) By deleting "或某綜合用途建築物的某部分".

7 By adding -

"(4A) As soon as practicable after a notice is given under subsection (4), the relevant enforcement authority must post a copy of such notice in a conspicuous place -

(a) inside the relevant building or part of a building; or

(b) at or in the immediate vicinity of each entrance to the relevant building or part of a building."

8(1)(b) By deleting everything after "that" and substituting "the relevant building or part of a building is effectively secured against entry by any person other than an authorized officer or a person having a permission under paragraph (a)(ii)".

9 (a) By renumbering the clause as clause 9(1).



ClauseAmendment Proposed

(b) In subclause (1), by adding "(a)(i)" after "8(1)".

(c) By adding -

"(2) A person who, without reasonable excuse, contravenes section 8(1)(b) is guilty of an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months."

12(1) By deleting "thereof" and substituting "concerned".

12(6) By deleting "of the building or part of a building".

13(3) By deleting everything after "Court" and substituting "may make any order as it thinks fit."

14 (a) In the heading, by deleting "**notice of**".

(b) In subclause (1), by deleting everything after "Registry" and substituting a full stop.

(c) By adding -

"(1A) Where -

(a) a fire safety compliance order or variance thereof is registered under subsection (1) and subsequently -

(i) the order is revoked under section 6(4); or

ClauseAmendment Proposed

(ii) the relevant enforcement authority has, by a written notice referred to in section 6(6), informed the magistrate's clerk that the order has been complied with; or

(b) a prohibition order is registered under subsection (1) and subsequently -

(i) a certificate of compliance has been issued under section 12(3); or

(ii) the order is -

(A) discharged under section 12(5); or

(B) revoked under section 13(3),

the relevant enforcement authority must cause to be registered by memorial the revocation, notice, certificate of compliance or discharge, as the case may be, against the land register of the relevant property in the Land Registry as soon as practicable and in any event not later than one month after the date of the revocation, notice, certificate of compliance or discharge."

ClauseAmendment Proposed

16

By adding -

"(2A) An authorized officer must not enter under subsection (1) or (2) any part of a building -

(a) intended for domestic purposes;  
and

(b) in respect of which the occupier of that part of the building has an exclusive right of use and enjoyment,

unless no less than 24 hours' notice in writing of an intended entry by such officer has been given to that occupier.".

17(1)

By deleting "or part of such a building".

19(1)(a)

By adding "other than a corporation registered under section 8 of the Building Management Ordinance (Cap. 344)" after "corporate".

19

By adding -

"(1A) If a corporation registered under section 8 of the Building Management Ordinance (Cap. 344) is convicted of an offence under this Ordinance, and it is proved that the offence was committed with the consent or connivance of a person concerned in the management of the corporation, that person also commits the offence.".

ClauseAmendment Proposed

Schedule 1      Within the square brackets, by deleting "& (10)" and substituting  
", (10) & (13)".

Schedule 1,      (a)    In subparagraph (i), by adding ", up to the standard of  
section 2(b)      fireman's lifts" after "lifts".

(b)    In subparagraph (ii), by deleting "for" and substituting  
"of".

Schedule 2      Within the square brackets, by deleting "& (10)" and substituting  
", (10) & (13)".

**Annex VI****KARAOKE ESTABLISHMENTS BILL****COMMITTEE STAGE**Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	<p>(a) In the definition of "卡拉 OK", in paragraph (b), by deleting "其他表" and substituting "任何平".</p> <p>(b) In the definition of "licence", by adding "or a provisional licence" after "establishment".</p> <p>(c) In the definition of "permit", by adding "or a provisional permit" after "establishment".</p>
3(1)	<p>By deleting paragraph (a) to (e) and substituting -</p> <p>"(a) in premises where the karaoke activity is carried on in not more than 3 rooms with an aggregate floor area of not more than 30 square metres;</p> <p>(b) in concert halls, theatres, auditoria and community halls in respect of which a licence has been granted and is for the time being in force under section 4 of the Places of Public Entertainment Ordinance (Cap. 172) or which are the subject of an order made under section 3A of that Ordinance that is for the time being in force; or</p> <p>(c) exempted by an order of the licensing authority under subsection (1A) that is for the time being in force.".</p>

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3

By adding -

"(1A) Where, for reasons connected with the situation, means of ingress or egress, design (including the percentage of the area allocated for the karaoke activity), construction or size of, or the equipment, installations or facilities in, any karaoke establishment, the licensing authority is satisfied that the safety of persons using the karaoke establishment will not be adversely affected, he may by order in writing exempt the karaoke establishment from the application of this Ordinance."

3(2)

By deleting "subsection (1)(e)" and substituting "subsection (1A)".

3(3)

In paragraph (b), by deleting everything after "the date" and substituting "of the written order made under section 5(7)".

4(1)

By deleting everything after "is" and substituting -

"liable -

(a) on first conviction, to a fine at level 5 and to imprisonment for 6 months; and

(b) on a second or subsequent conviction, to a fine at level 6 and to imprisonment for 1 year,

and in the case of a continuing offence, to a further daily fine of \$2,000 for each day during which the offence continues."

4

By deleting subclause (4).

<u>Clause</u>	<u>Amendment Proposed</u>
5(1)	In paragraph (iii), by adding "訂明" before "費".
5(3)	(a) In paragraph (a)(iii), by adding "and" at the end. (b) In paragraph (b)(ii) - (i) by deleting "; and" and substituting a full stop; (ii) by deleting "合" and substituting "宜". (c) By deleting paragraph (c).
5	By deleting subclause (6).
5(8)	In paragraph (c), by deleting "12" and substituting "24".
5	By adding -  "(9) Notwithstanding subsection (8)(c), a permit to operate a karaoke establishment shall cease to have effect when the licence referred to in subsection (4)(a) or (b) or the certificate of compliance referred to in subsection (4)(c) in respect of the restaurant, hotel, guesthouse or clubhouse in which the karaoke establishment is located is no longer in force."
7	In the heading, by deleting " <b>Grant or issue or transfer of permit or licence to</b> " and substituting " <b>Representatives of</b> ".
7	By adding -

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"(3) A body corporate or a partnership may make an application to the licensing authority in such form and manner as the licensing authority may determine to substitute another person ("the substitute person") for the person whose name appears on the permit or the licence as the representative of the body corporate or the partnership.

(4) If the licensing authority is satisfied that the substitute person is a person who falls within section 5(3)(a), he shall grant the application and amend the permit or the licence to replace the name of the person specified therein with the name of the substitute person."

8(8) By deleting "12" and substituting "24".

9 By deleting subclause (2).

10 (a) In paragraph (i), by deleting "該持證人或持牌" and substituting "有關申請".

(b) By adding -

"(iia) in the case where the grantee or the licensee is a body corporate or a partnership, the person whose name appears on the permit or the licence as the representative of the body corporate or partnership has been convicted of an offence under this Ordinance or any regulation made under section 20;"

(c) In paragraph (iii), by adding "or" at the end.



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(d) In paragraph (iv), by deleting "; or" and substituting a full stop.

(e) By deleting paragraph (v).

11(2) By adding ", as the case may be" after "licensee".

12 By deleting subclause (2).

New By adding in Part III -

**"12A. Coming into force of decisions  
of licensing authority**

(1) Except as provided in subsection (2), a decision of the licensing authority that may be appealed against under section 12 shall not come into force -

(a) subject to paragraph (b), until the expiration of the period during which an appeal under that section against the decision may be made; or

(b) if an appeal under that section against the decision is made, until the appeal is disposed of, withdrawn or abandoned.

(2) Where the licensing authority is of the opinion that the safety of persons using a karaoke establishment will be adversely affected if the operation of a decision is suspended under subsection (1) and inserts a statement to that effect in the notice of the decision, the

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decision shall come into force upon service of such notice."

- 13(1)           (a) By deleting "this section" and substituting "ensuring compliance with the provisions of this Ordinance and the conditions imposed in respect of any permit or licence".
- (b) In paragraph (ii), by adding "and" at the end.
- (c) By deleting paragraph (iii).

- 13(2)           By deleting "public officer authorized in writing for that purpose nor the Commissioner of Police or any police officer authorized by him" and substituting "authorized public officer nor the Commissioner of Police or any authorized police officer".

- 13              By adding -

                  "(3)           Where a magistrate is satisfied by information on oath that there is a reasonable ground for suspecting that there is to be found in any karaoke establishment or any premises any thing that is evidence of the commission of an offence against this Ordinance, he may issue a warrant authorizing -

- (a) any public officer authorized under subsection (1)(a); or
- (b) the Commissioner of Police or any police officer authorized by him under subsection (1)(b),

with such assistants as may be necessary, at any time to search for, seize and remove for further examination or

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testing any such thing in the karaoke establishment or the premises specified in the warrant.

(4) Where any thing is seized and removed under subsection (3) and no prosecution is instituted in respect of the suspected offence to which the thing relates within 6 months after the day of its seizure and removal, the authorized public officer or the Commissioner of Police or the authorized police officer shall return or arrange for the return of the thing to the operator of the karaoke establishment concerned or the person from whom it was seized and removed, as the case may be."

14 By adding before subclause (1) -

"(1A) The licensing authority may, in respect of any karaoke establishment in respect of which a permit or a licence has been granted or issued, by notice in writing, give such directions as appear to him to be required to secure that -

- (a) the conditions of the permit or the licence, as the case may be, are complied with; or
- (b) the provisions of this Ordinance are complied with."

14(1) (a) By adding "other" after "any".

(b) In paragraph (a), by deleting "on the premises being used as a" and substituting "using the".

14(2) By deleting "subsection (1)" and substituting "this section".

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- 15(1) (a) By adding "or a specified part thereof ("specified part")" before "shall close".
- (b) By deleting "until the licensing authority gives notice under subsection (4)".
- 15 By adding -
- "(1A) An order under subsection (1) shall not operate -
- (a) if, on the day the order is made, any part of the karaoke establishment is used for human habitation, to prevent such habitation in that part; or
- (b) to affect the use of any common area in any building or public place so as to cause obstruction to public passage or fire escape.".
- 15(2) In paragraph (a), by adding "or specified part" after "establishment" wherever it appears.
- 15(3) By adding "or specified part" after "establishment".
- 15 By deleting subclause (4) and substituting -
- "(4) At any time while an order under subsection (1) is in force -

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- (a) the person being the operator, keeper, manager or otherwise having control of the karaoke establishment; or
- (b) any person having an interest in the premises to which an order under subsection (1) relates,

may, by notice in writing served on the licensing authority, request the licensing authority to make a declaration under subsection (5).

(5) Where a request is made under subsection (4), the licensing authority shall as soon as practicable, and in any event within 28 days after receiving the request -

- (a) if satisfied that the circumstances that gave rise to the making of the order no longer exist, by notice in writing served on the person who made the request, declare that the order shall cease to have effect; or
- (b) in any other case, notify the person in such manner as he thinks fit of any outstanding matter that requires to be remedied.

(6) If the licensing authority -

- (a) rejects a request; or
- (b) fails to make a declaration under subsection (5)(a) within the specified period,

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the person who made the request may apply to the District Court for the discharge of the order.

(7) A person who makes an application under subsection (6) shall give notice in writing of the application to the licensing authority within 7 days after making the application.

(8) On hearing an application for the discharge of an order, the District Court may discharge the order if it is satisfied that the circumstances that gave rise to the making of the order no longer exist."

16

By deleting subclause (2) and substituting -

"(2) Where a person charged with an offence under subsection (1)(a) is -

- (a) a representative of a body corporate or a partnership whose name appears on the permit or the licence concerned; or
- (b) a grantee or a licensee who is an individual,

it shall be a defence for the person to prove that -

- (i) he did not know and had no reason to suspect the existence of the circumstances giving rise to the contravention; and
- (ii) he could not, by the exercise of reasonable supervision and reasonable diligence, have

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prevented those circumstances  
arising."

16(4) By deleting paragraph (e) and substituting -

"(e) contravenes section 15(3),".

16(5) By deleting everything after "is" and substituting -

"liable -

(a) on first conviction, to a fine at level 5  
and to imprisonment for 6 months; and

(b) on a second or subsequent conviction, to  
a fine at level 6 and to imprisonment for  
1 year,

and in the case of a continuing offence, to a further daily  
fine of \$2,000 for each day during which the offence  
continues."

18 (a) By renumbering the clause as clause 18(1).

(b) In subclause (1), by adding ", other than a notice to be  
served under section 15(1)(a)," after "Ordinance".

(c) By adding -

"(2) A notice to be served under  
section 15(1)(a) shall be served -

(a) by serving a copy by  
registered post addressed to

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the last known place of business or residence of the person to be served; and

- (b) by leaving a copy with an adult occupier of the premises or part thereof to which the notice relates or by posting a copy in a prominent position upon or near such premises or upon a conspicuous part of such premises or part thereof,

and service of the copy of notice under paragraph (a) shall be deemed to have been effected on the day immediately following the day on which it is dispatched by registered post."

- 19 (a) By deleting "taken possession of and removed for further examination under section 13(1)(iii)" and substituting "seized and removed under a warrant issued under section 13(3)".

- (b) By deleting everything after "of karaoke" and substituting a full stop.

- 20(1) (a) In paragraph (a), by adding ", maintenance, hygiene" after "suitability".

- (b) By adding -

"(ba) factors to be taken into account by the licensing authority in deciding the suitability of places under section 5(3)(b);".



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(c) In paragraph (c), by adding "maintenance," after "structure,".

20(3) By adding "不利 " after "受到 ".

20 By deleting subclause (4) and substituting -

"(4) A regulation made under this section may provide that a contravention thereof shall be an offence punishable by a specified penalty not exceeding -

(a) on first conviction, a fine at level 5 and imprisonment for 6 months; and

(b) on a second or subsequent conviction, a fine at level 6 and imprisonment for 1 year,

and in the case of a continuing offence, punishable by a further daily fine not exceeding \$2,000 for each day during which the offence continues.".