

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 30 June 2004

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.

DR THE HONOURABLE DAVID CHU YU-LIN, 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.

DR THE HONOURABLE ERIC LI KA-CHEUNG, G.B.S., J.P.

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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 CHAN KWOK-KEUNG, J.P.

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, G.B.S.

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, S.B.S., 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, J.P.

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

DR 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, J.P.

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 LUI MING-WAH, J.P.

THE HONOURABLE HUI CHEUNG-CHING, J.P.

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

THE HONOURABLE AMBROSE LEE SIU-KWONG, IDSM, J.P.
SECRETARY FOR SECURITY

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

CLERKS IN ATTENDANCE:

MR RICKY FUNG CHOI-CHEUNG, J.P., 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 *L.N. No.*

Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) (Amendment) Order 2004	128/2004
Mutual Legal Assistance in Criminal Matters (Singapore) Order (L.N. 112 of 2004) (Commencement) Notice 2004	129/2004
Merchant Shipping (Security of Ships and Port Facilities) Rules	130/2004

Other Papers

- No. 93 — Report by the Commissioner of Correctional Services on the administration of the Prisoners' Welfare Fund for the year ended 31 March 2004
- No. 94 — Report by the Board of Governors of The Prince Philip Dental Hospital for the period from 1 April 2002 to 31 March 2003
- No. 95 — Hong Kong Trade Development Council
Annual Report 2003/04
- No. 96 — Report of the Independent Police Complaints Council 2003
- No. 97 — Airport Authority Hong Kong
Annual Report 2003/2004

No. 98 — Sir Robert Black Trust Fund
Annual Report for the year from 1 April 2003 to 31 March
2004

No. 99 — Sir David Trench Fund for Recreation
Trustee's Report 2003-2004

No. 100 — The Sixteenth Annual Report of The Ombudsman,
Hong Kong (June 2004)

Report of the Panel on Public Service 2003/2004

Report of the Panel on Home Affairs 2003/2004

Report of the Panel on Housing 2003/2004

Report of the Panel on Security 2003/2004

Report of the Panel on Welfare Services 2003/2004

Report of the Panel on Information Technology and Broadcasting
2003/2004

Report of the Panel on Health Services 2003/2004

Report of the Bills Committee on Landlord and Tenant (Consolidation)
(Amendment) Bill 2003

Report of the Bills Committee on Waste Disposal (Amendment) (No. 2)
Bill 2003

Report of the Bills Committee on Construction Workers Registration Bill

Report of the Bills Committee on Road Traffic (Amendment) Bill 2003

Report of the Bills Committee on Clearing and Settlement Systems Bill

Report of the Bills Committee on United Nations (Anti-Terrorism
Measures) (Amendment) Bill 2003

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Dr Eric LI will address the Council on the Report of the Independent Police Complaints Council 2003.

Report of the Independent Police Complaints Council 2003

DR ERIC LI: Madam President, on behalf of the Independent Police Complaints Council (IPCC), may I present the Report of the IPCC 2003.

The IPCC is an independent body, the members of which are appointed by the Chief Executive. Its main duty is to monitor and review the investigation conducted by the Complaints Against Police Office (CAPO) of the Hong Kong Police Force into complaints against the police to ensure impartiality and thoroughness. When examining the investigation reports, the IPCC can ask the CAPO to clarify areas of doubt, or request the CAPO to reinvestigate into a complaint if it is not satisfied with the investigation result. Where necessary, the IPCC may also interview witnesses, including the complainants, complainees and professionals, such as forensic pathologists, for further information or expert advice. A case will not be finalized until the IPCC has endorsed the CAPO's investigation results.

In 2003, the IPCC reviewed and endorsed a total of 3 569 complaint cases involving 6 262 allegations, a decrease of 38 cases and an increase of 49 allegations when compared with the corresponding figures of 3 607 and 6 213 in 2002. Allegations of "Assault", "Misconduct/Improper Manner/Offensive Language" and "Neglect of Duty" constituted 83.7% of the total allegations, representing an increase of 2.2% when compared with the figure of 81.5% recorded for 2002. Of the 6 262 allegations endorsed, 113 were classified as "Substantiated", 152 were "Substantiated Other Than Reported", 21 were "Not Fully Substantiated", 1 040 were "Unsubstantiated", 255 were "False", 395 were "No Fault", 12 were "Curtailed", 1 905 were "Withdrawn", 830 were "Not Pursuable", and the remaining 1 539 allegations which were of a very minor nature, such as "Impoliteness", were resolved by "Informal Resolution", that is, mediation by a senior police officer who is at least at the Chief Inspector of Police rank in the complainee's division. The substantiation rate in relation to the 1 976 fully investigated allegations in 2003 was 14.5%.

In 2003, the IPCC raised 687 queries on the CAPO's investigation reports, asking for clarifications on ambiguous points or questioning the results of investigations. Subsequently, the results of investigations of 105 allegations were changed. Arising from the investigation results endorsed by the IPCC in 2003, criminal proceedings, disciplinary and other forms of internal actions were taken against 243 police officers. The IPCC also suggested improvements to police procedures where appropriate.

To provide a higher level of service, the IPCC has promulgated a set of performance pledges in terms of standard response time in handling public enquiries and monitoring complaints against the police. The performance of the IPCC in meeting its pledges in 2003 was satisfactory. 99.8% of normal cases were endorsed within the pledged period of three months. In addition, 99.3% of complicated cases and 99.2% of appeal cases were endorsed within the pledged period of six months. With experience gained from operation in the past years, the IPCC will strive to maintain a high level of performance in future.

Although the IPCC plays no part in the actual investigation, its members and Lay Observers, through the IPCC Observers Scheme, can observe the conducting of investigations and interviews by the CAPO on a scheduled or surprise basis. In 2003, 231 observations were arranged under the IPCC Observers Scheme. After each observation, the Observers report to the IPCC as to whether the CAPO has conducted the investigation in a thorough and impartial manner. Their feedback has been useful to the IPCC in monitoring the complaint cases.

During 2003, the IPCC organized a series of publicity programmes to publicize its functions and image. As part of its ongoing publicity programme, the IPCC continued to organize talks at secondary schools in 2003. In addition, the IPCC corporate video was broadcast on public transport to enhance public understanding of the operation of the police complaint system and the work of the IPCC.

Madam President, to sum up, 2003 was a busy and successful year for the IPCC. Details of the activities of the IPCC and some complaint cases of interest are given in the Report of the IPCC 2003. We shall continue to keep up with the high standard of thoroughness and impartiality in our monitoring and review of investigations into public complaints against the police. We understand that the Administration is now working on the draft legislation to

establish the IPCC as a statutory body, and we hope that this can further enhance the monitoring function of the IPCC and public confidence in the police complaint system. Thank you.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung will address the Council on the Report of the Panel on Public Service 2003/2004.

Report of the Panel on Public Service 2003/2004

MR TAM YIU-CHUNG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Public Service, I present to the Legislative Council the report on the work of the Panel from October 2003 to June 2004.

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

In the past year, although the Hong Kong economy showed signs of recovery, the Government was still under the pressure of fiscal deficit. Therefore, given the Government's target of restoring fiscal balance and keeping public expenditure to 20% of Gross Domestic Product or below by 2008-09, the Panel closely monitored the civil service initiatives put forward by the Administration to reduce public expenditure, including the initiatives to contain the size of the Civil Service and to reduce expenditure on civil service pay and allowances.

With regard to containing the size of the Civil Service, the Government had set a target of reducing the civil service establishment to about 160 000 by 2006-07. The Panel was concerned about the impact of a drastic reduction of the establishment on the delivery of public service, and whether the reduction had been implemented in a fair manner across all grades and ranks in the Civil Service. The Administration expressed that in the process of identifying savings and reducing surplus posts, Directors of Bureau (DoBs) and Heads of Department (HoDs) would uphold the principle of achieving cost-effectiveness in service delivery, and ensure that the provision and quality of public service would not be unduly affected. The Administration assured the Panel that deletion of posts was in no way targeted at any particular grade or rank but was considered on the basis of operational needs for retaining the posts.

The Panel noted that the Administration was considering some additional measures to facilitate further reduction of the civil service establishment. The Administration said that it had not yet decided on what additional measures to take, but the possible measures under consideration did not include forced redundancy, and that it had not set any other new target for reducing civil service establishment at the present stage.

As regards civil service pay adjustment, the Administration had, through the Public Officers Pay Adjustments (2004/2005) Bill passed in December 2003, implemented the civil service pay adjustment for 2004 and 2005. To ensure that an improved civil service pay adjustment mechanism would be in place on time for the implementation of the 2006 civil service pay adjustment, the Panel would monitor closely the progress of the work concerned. The Panel noted that the Administration had decided to defer the timeframe for completing the exercise to the second quarter of 2005 to allow sufficient time for detailed examination of the complicated issues involved and for more extensive consultation. The Panel urged the Administration to put in place in 2006 the necessary draft legislation for implementing a pay adjustment mechanism that allows both upward and downward adjustments.

On the proposed Pay Level Survey (PLS) to be implemented soon, the Panel shared the staff concern over how the results of the PLS would be applied to civil servants. The Administration expressed that it did not have any set stance on the application issue and it would take a decision only after consultation with staff. The Panel was assured by the Administration that any changes to the existing mechanism would be consistent with the Basic Law and would take full account of contractual considerations.

The Panel supported a comprehensive review of all civil service allowances by the Administration to ensure that the continued payment of the allowances was justified and compatible with present-day circumstances. Regarding the review of fringe benefit type of allowances, any changes proposed by the authorities should be lawful, reasonable and fair. The Administration expressed that it would take full account of the legal, policy and other relevant considerations.

In view of the public's concern over the taking up of employment by retired Directorate officers with private enterprises shortly after retirement, the Panel had studied the policy governing the employment of civil servants after

retirement. Members opined that a due process for handling the applications for post-retirement employment was needed to maintain the impartiality of the mechanism and to safeguard public interests. Members urged the Administration to review the existing mechanism as early as possible. In this connection, members suggested that the granting of approval for post-retirement employment should be tightened up by lengthening the sanitization period for retired Directorate officers, and that the sanitization period should be counted from the date on which the retired officers left the Civil Service. In other words, retired officers should not be allowed to take up any employment during the period of their pre-retirement leave. Members also invited the Administration to consider how the transparency of the mechanism could be enhanced. In the light of members' views, the Administration undertook to review the existing mechanism with a view to completing the review by the end of 2004.

Moreover, the Panel had studied the pension suspension policy for retired civil servants. Some members considered that the pension suspension policy should apply to all retired civil servants who were still gainfully employed in the Government with a stable monthly income financed by the public purse, including the retired civil servants appointed as Principal Officials under the Accountability System, and that it was not justified to exempt this category of retired civil servants from pension suspension. In this connection, the Panel passed a motion calling on the Administration to review this exemption arrangement.

As regards the studies now undertaken by the Administration on the civilianization potential in disciplined services departments, members were concerned about the impact of civilianization on the establishment of the disciplined services grades, and the promotion prospects and the morale of the disciplined services staff. The Panel stressed the importance of staff consultation and urged the Administration to conduct thorough consultation with the relevant staff unions in the course of the studies.

Regarding the commissioning of a consultancy study on the remuneration of senior executives of 10 selected statutory and other bodies by the Administration, the Panel had followed up the implementation of the recommendations. Members were concerned that only three of the 10 selected bodies had adopted the consultant's recommendations on remuneration mix and six of them had adopted a modified approach. Members were also concerned that the remuneration levels of the chief executives of some selected bodies were

higher than those recommended by the consultant, in particular the remuneration level of the Chief Executive of the Hong Kong Monetary Authority (HKMA). Members requested the Administration to convey their concern about the remuneration level of the Chief Executive of the HKMA to the Financial Secretary.

Lastly, 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. I so submit.

PRESIDENT (in Cantonese): Mr IP Kwok-him will address the Council on the report of the Panel on Home Affairs 2003/2004.

Report of the Panel on Home Affairs 2003/2004

MR IP KWOK-HIM (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Home Affairs, I would like to report on the work of the Panel during the Legislative Session of 2003-04.

Over the past year, the Panel discussed many issues, including incidents relating to the Equal Opportunities Commission, review of advisory and statutory bodies, measures to address gambling-related problems, code of practice for the conduct of soccer betting and lotteries, monitoring of human rights, safeguarding freedom of expression, building management, review of built heritage conservation policy, and the priority of the provision of leisure and cultural services facilities. I would like to make a brief report here on the two important issues of the review of advisory and statutory bodies, as well as the measures to address gambling-related problems.

As proposed by the Panel, the Administration had conducted a comprehensive review of the system of advisory and statutory bodies of the Government, and had submitted two progress reports to the Panel during this Session.

Members were particularly concerned about the situation of non-compliance with the six-year and six-board rules. Some members queried

whether there were really no other suitable persons for appointment to replace the incumbents, and whether the appointment period had to be as long as six years in order to maintain continuity. The Administration undertook to closely monitor compliance with a view to bringing about further improvements in the two areas.

Members were also concerned about the handling of conflict of interest. The Administration expressed that almost all Policy bureaux had confirmed that they had put in place either a one-tier or a two-tier reporting system for declaration of interest. As to how the relevant rules and regulations were enforced, it would be up to the relevant boards/committees and their chairmen. The Administration would consider drawing up a set of fundamental principles, based on similar guidelines published in Australia, Canada and the United Kingdom, for members of advisory and statutory bodies to follow.

Moreover, the Panel had discussed with the Administration the progress of measures implemented to address gambling-related problems. Members were particularly concerned that as many as 4 000 secondary school students under 18 had taken part in soccer betting. Members urged the Administration to review the effectiveness of authorized soccer betting in combating illegal soccer betting, and to find out whether the betting centres had accepted bets placed by underage persons.

The Administration explained that based on previous surveys conducted by the Administration, it was found that the number of adolescents under the age of 18 engaged in soccer betting had been on the increase in the past two to three years. However, before August 2003, they had placed bets with illegal bookmakers, and this trend could have resulted in even more serious problems if there had not been authorized soccer betting. The Administration said that the Hong Kong Jockey Club had been asked to put in measures to prohibit underage persons from participating in betting.

The Administration had also consulted the Panel on the codes of practice for the conduct of soccer betting and lotteries.

The Administration explained that the specification of details such as bet and match types in the legislation or in the licensing conditions would seriously undermine the licensee's competitiveness and the effectiveness of authorized soccer betting in combating illegal gambling activities. The Administration had

taken relevant measures, such as preventive education and counselling and treatment services, to address gambling-related problems. The Administration further said that the Government would make an evaluation two years after the implementation of authorized soccer betting, and the relevant information would be provided to the Panel once available.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr Albert HO will address the Council on the Report of the Panel on Housing 2003/2004.

Report of the Panel on Housing 2003/2004

MR ALBERT HO (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Housing, I table the Report of the Panel on Housing 2002/2003 and give a brief account on several major areas of work mentioned in the Report.

In the past four years, the Panel has monitored closely the formulation and implementation of housing policy by the authorities to deal with the imbalance of supply and demand in the property market. Consequent to the Government's decision to cease the Home Ownership Scheme (HOS) and the Private Sector Participation Scheme (PSPS), members had continuously followed up how the Government was to dispose of some 10 000 surplus HOS flats. Members welcomed the conversion of some 5 000 HOS flats into public rental housing units for allocation to applicants on the Waiting List, and the conversion of some 4 000 flats into departmental quarters for the disciplined services to re-provision some older departmental quarters. However, members expressed grave concern over the agreement reached between the Government and the PSPS developer on the Hung Hom Peninsula. The Government allowed the developer to sell 2 470 flats in the open market after paying a premium of \$864 million. The majority of members shared the public's opinion that the premium was too low. To enable the Panel to have a full picture of why Government went for the negotiation option and how the premium was determined, the Government provided to the Panel for perusal on a confidential basis the relevant legal opinion on the disposal options and the valuation report. Meanwhile, during its

regular meeting in July, the Panel discussed with the Government the handling of another PSPS project — the Kingsford Terrace.

Members expressed deep concern over the decision of the Hong Kong Housing Authority (HA) to divest its retail and car-parking facilities through setting up a Real Estate Investment Trust (REIT) for the purpose of tiding over budget deficit. The proposal would impact on commercial tenants, consumers and staff of the Housing Department. Since the HA had no intention of retaining any equity in the company set up to manage the REIT, there would be no way for the HA to affect its policy-making to ensure that it was in the public's interests. Members hoped that the HA would review again if such a move was appropriate. The Panel has arranged to meet with various organizations during its regular meeting in July to listen to their views in this regard.

Since the Court of First Instance ruled against the HA in the middle of last year in a case on median rent-to-income ratio (MRIR), the Panel had instantly urged the HA to review and adjust rent to comply with the statutory 10% MRIR ceiling despite the Government's decision to lodge an appeal against the judgement. In March 2004, the Administration explained to members five rent adjustment options. These options ranged from a 38% rent reduction across the board to varying rates of rent reduction for targeted tenants. Divergent views were expressed by members on the various options. The HA decided, subject to the outcome of the appeal, to adopt the option which would incur the least financial outlay, that is, waiving the rent of Comprehensive Social Security Assistance households plus an across-the-board rent reduction of 10% for other households. The Panel would hold a meeting after the Court of First Instance has made a ruling on the Government's appeal to follow up the HA's rent reduction decision.

The Panel raised strong objection to the proposal by the Administration at the beginning of 2004 of not to provide metal gates to domestic public rental housing flats. Members considered that metal gates were needed to enable tenants to keep their flat doors open for better ventilation and fostering neighbourliness. Having taken into account the Panel's view, the HA decided that metal gates would continue to be provided to new reception estates, and members welcomed this.

The other key areas of the Panel's work are set out in the Report tabled. Madam President, I so submit.

PRESIDENT (in Cantonese): Mr James TO will address the Council on the Report of the Panel on Security 2003/2004.

Report of the Panel on Security 2003/2004

MR JAMES TO (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Security (the Panel), I submit the Report to this Council on the work of the Panel in the 2002-03 Legislative Session, and shall highlight several key areas of work of the Panel.

Members expressed concern about a sharp rise of 61% in the number of illegal workers arrested in the first nine months of 2003 over that for the corresponding period in the previous year. They queried whether the existing measures had any deterrent effect and requested the Administration to provide information on the provinces from which arrested illegal workers had come. The Administration considered that it was not in a position to provide information on their origin because it might affect future operations against illegal employment, and might result in visitors from some provinces or cities being inappropriately labelled.

Members also expressed concern that the Interception of Communications Ordinance (ICO), which was enacted on 28 June 1997, had not yet been brought into operation. The Administration responded that the implementation of the ICO in its current form would pose serious operational difficulties to law enforcement agencies and prejudice the security of Hong Kong. In view of this, the Chief Executive in Council decided on 8 July 1997 that the ICO should not be brought into operation pending a review. The Administration had set up an interdepartmental working group in late 1999 to undertake a comprehensive review of the existing law, regulatory regime and related matters in relation to interception of communications.

Members were very concerned about the time of completion of this review by the Administration. The Administration assured members that it had no

intention to delay indefinitely the review of the matter. The review had taken longer than anticipated as it covered highly technical and complex issues. The Administration would make every effort to submit its policy recommendations to the Panel during the 2004-05 Session.

In July 2002, the Law Reform Commission (LRC) issued a report entitled "The Regulation of Debt Collection Practices". The Administration briefed the Panel that the Government was carrying out a comprehensive study on issues relating to the recommendations in the LRC Report. These included the impact of the proposals in the Report on Civil Justice Reform, the enforceability of the proposal of creating the criminal offence of harassment of debtors and others, and whether a licensing scheme should be introduced for debt collectors. The result of the study would be made public, and public consultations on the way forward would be conducted by the Government.

Members considered that there was an urgent need to implement the recommendations in the LRC Report, and suggested that the various recommendations should be implemented in phases. If there were difficulties in implementing some of the recommendations, those which were easier to implement could be dealt with by the Administration first.

The Panel noted that the aim of the Government's overall policy on integrity check for the Civil Service was to ensure that potential and serving employees were of good character and high integrity. However, the Government said that the integrity check was a risk assessment tool and was not the sole factor determining the suitability of an individual for appointment or promotion. Each case had to be dealt with on its own merits having regard to individual circumstances. It remained a conscious decision of the appointment authority as to whether a particular individual should be appointed or promoted if the check revealed information that might need to be taken into account.

A member was of the view that a person who failed to pass the integrity check should not be appointed or promoted. The member also considered it inappropriate to leave the decision of whether to appoint or promote a person to the department concerned irrespective of whether the integrity check was passed. To increase public's confidence in the system of integrity check, members urged the Administration to formulate measures to ensure that the check was conducted independently.

Members were concerned whether the recent two cases of intimidation or violence against phone-in programme hosts were related to their public comments or duties and, if so, would pose a threat to the freedom of speech in Hong Kong.

The Administration stressed that the police attached great importance to criminal acts against any public figures. On receiving reports of such cases, the police would conduct careful and thorough investigations into them. The Administration stated that investigations in respect of the two cases were still underway. So far, there was no evidence to suggest that they were related to the public comments made by the two public figures.

Some members pointed out that it had been alleged that the Central Authorities had been exerting pressure on Mr Albert CHENG through some other people. The Administration informed members the police had contacted the mainland authorities and was informed that there was no question of exerting pressure as alleged. However, the Administration declined to disclose the level of the mainland authorities contacted by the police.

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

PRESIDENT (in Cantonese): Miss CHAN Yuen-han will address the Council on the Report of the Panel on Welfare Services 2003/2004.

Report of the Panel on Welfare Services 2003/2004

MISS CHAN YUEN-HAN (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Welfare Services (the Panel), I submit the Report to this Council on the work of the Panel in the 2002-03 Legislative Session, and shall highlight several key areas of work of the Panel.

In November 2003, the Administration consulted the Panel about a new commitment of \$130 million to establish a Trust Fund for Severe Acute Respiratory Syndrome (SARS) in order to provide support measures to SARS patients and their families in the context of the outbreak from March to June 2003.

Members were of the view that the cumulative financial assistance of \$500,000 for recovered SARS patients as suggested by the Administration was too low. They were also of the view that the scope of the Trust Fund for SARS should be expanded to cover patients who were clinically diagnosed as having contracted SARS on admission, treated with steroids as medication for SARS, but turned out subsequently not to have contracted SARS. After discussion, the Administration accepted members' views.

The Administration briefed the Panel on the up-to-date position of the Trust Fund for SARS, following its establishment on 8 November 2003, in December 2003. Members were very concerned that of the total 121 applications received involving recovered SARS patients as at the end of November 2003, not one application had been approved.

Besides, Members were also concerned about the preventive measures against SARS amongst elders. To better protect the health of elders, members urged the Administration to provide influenza vaccinations to all needy elders in the community at a concessionary rate, and that the "Operation CARE" project launched by the Social Welfare Department (SWD) from late May 2003 to end of October 2003 should be extended to provide household cleansing and minor repairs services to vulnerable elders in the community.

The Administration advised that not all elders needed to receive influenza vaccinations. Nevertheless, service units of non-governmental organizations (NGOs), such as district elderly community centres (DECCs), neighbourhood elderly centres and social centres for the elderly, had provided needy elders in the community with influenza vaccination at a concessionary rate from September to December 2003. As at the end of December 2003, 173 centres/service units had participated in the campaign.

As regards provision of cleansing and repairs services for needy elders after the discontinuation of the "Operation CARE" project, the Administration advised that the SWD's 13 District Social Welfare Offices would continue to co-ordinate these services, such as liaising with relevant service units, DECCs, integrated home care services teams and volunteer organizations of NGOs. Besides, uniform and various community organizations, such as rural committees, schools, religious organizations and mutual aid committees, would render assistance as appropriate.

Madam President, in the light of the occurrence of the Tin Shui Wai family tragedy on 11 April 2004, the Panel held three joint meetings with the Panel on Security in April and May 2004 to meet with deputations and the Administration, to discuss the strategy and measures to prevent and tackle family violence.

The Administration assured the Panel that the scope of the three-person review panel, formed by the SWD to review the situation and procedures of providing family services in Tin Shui Wai, would not be restricted to the work of the SWD and the NGOs concerned on family violence, but would also review the roles of other government departments concerned, such as the police and the Housing Department (HD). The welfare sector was generally supportive of the appointment of the review panel.

In order to prevent recurrence of the Tin Shui Wai family tragedy, the Panel decided to form a Subcommittee to consider the more pressing issues before the conclusion of the current Legislative Session. The Subcommittee already held its first meeting on 24 June 2004.

Other issues discussed by the Panel included progress reports of the healthy ageing campaign, the Community Investment and Inclusion Fund and the intensified support for self-reliance measures under the Comprehensive Social Security Assistance (CSSA) Scheme, empowerment of women, final report on the "Three-year Action Plan to Help Street Sleepers", evaluation report on the ending exclusion project for single parents on CSSA and provision of disregarded earnings under the CSSA Scheme. The Panel was consulted on the planned introduction of the standardized needs assessment tool for admission to residential homes for people with disabilities.

On behalf of the Panel, I would like to take this opportunity to thank the Legislative Council Secretariat and the staff for their all-out assistance to the Panel.

PRESIDENT (in Cantonese): Mr SIN Chung-kai will address the Council on the Report of the Panel on Information Technology and Broadcasting 2003/2004.

Report of the Panel on Information Technology and Broadcasting 2003/2004

MR SIN CHUNG-KAI (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Information Technology and Broadcasting (the Panel), I submit the Report to this Council for the current Session, and shall highlight several key areas of work of the Panel.

The Panel has kept an interest in the issue of Type II interconnection in the local fixed telecommunications network services market, and listened to the views expressed by the industry on the consultation paper issued by the Administration. In examining the pros and cons of the Administration's proposal to withdraw Type II interconnection obligation in buildings connected by at least two self-built customer access networks, members agreed in principle that operators should not over-rely on Type II interconnection in lieu of rolling out their networks. Besides, the Panel also requested the Administration to review whether it was appropriate to withdraw Type II interconnection obligation in buildings connected in phases within a period of six years. The Panel would keep in view the outcome of the review of the policy on Type II interconnection.

Following the passage of the Telecommunications (Amendment) Ordinance 2003 in July 2003, for many times, the Panel followed up with the Administration and the industry the proposed Guidelines on Mergers and Acquisitions (M&A Guidelines) drawn up in pursuance of the Ordinance. Although the Panel understood that a number of operators maintained their reservation about some of the areas in the M&A Guidelines, since the M&A Guidelines had already gone through two rounds of consultation while they could still be amended in future, the Panel generally considered that the M&A Guidelines could be finalized. The Administration already published the M&A Guidelines on 3 May 2004 and appointed 9 July 2004 as the date on which the abovementioned Ordinance would come into operation.

In regard to institutional review, on the Administration's proposal to merge the Information Technology Services Department with the IT-related divisions of the Commerce, Industry and Technology Bureau to form a new, integrated entity within the Bureau, and for the proposed Government Chief Information Officer post to head the new entity, members had no objection. However, the Panel urged the Administration to pay positive attention to the possible impact of the proposed arrangement on the morale of the affected civil service grade within the Department. Besides, the Panel had kept periodic

review of the progress of the e-Government programme, and noted that the next stage of work would be "joining up" government departments using information and communication technologies, re-engineering government operations and processes and making e-Government services more customer-centric. To address members' concerns, the Administration undertook to include information on benefits and savings arising from e-Government initiatives in its future progress reports to the Panel.

The Panel supported the Administration in extending the IT Easy Link for one year. It, however, was of the view that the Administration should not discontinue the project due to tight budget when the current extension ends in June 2005, as it had been well received by the community and the demand for such services remained high. Members suggested the Administration to take various means to adjust service standards and lower operating costs in order that the services could be retained. The Administration agreed to consider members' views and would report the situation to the Panel in one year's time.

During the discussion with the industry and the Administration on digital terrestrial broadcasting, the Panel opined that the Administration must be satisfied that the benefits of digital broadcasting should outweigh its costs, and ensure that the underprivileged sectors of society could continue to enjoy domestic free TV programme services. On the technical standard to be adopted for digital terrestrial television service, some manufacturers told the Panel that the industry could readily respond to market demand by producing multi-standard hardware, even if Hong Kong and the Mainland adopted different technical standards. As digital terrestrial broadcasting would enable the more efficient use of the available frequency spectrum, it would be possible to increase the number of TV or radio channels. Some members had therefore urged the Administration to re-examine the feasibility of setting up public access channels.

The Panel had also examined the issues related to the development of Radio Television Hong Kong (RTHK). The Administration said that it would keep in view the status of the proposed broadcasting house project. The Panel also urged the Administration that when outsourcing the production work for the Educational Television (ETV) programmes, it should consider the cost-effectiveness and the impact on the existing staff of RTHK. In view of budget deficits, the Panel supported the Administration to commercialize the quality productions of RTHK through effective channels. The Panel was pleased to note that RTHK had invited tender on the production, marketing and distribution of its television programmes on compact discs. While the gross

revenue generated would have to be returned to the general revenue of the Government, the Financial Services and the Treasury Bureau had agreed to subsidize the costs incurred by RTHK from the commercialization of the productions (except civil service personal emoluments).

In reviewing the progress of the Cyberport project, the Panel held that we had to ensure that the Cyberport would serve its intended objective of creating a strategic cluster of leading IT companies in Hong Kong. Both the Administration and the Cyberport management company would keep in view the progress in this regard.

Madam President, I would like to take this opportunity to thank colleagues in the Secretariat in giving assistance to our work over the past year.

PRESIDENT (in Cantonese): Mr Michael MAK will address the Council on the Report of the Panel on Health Services 2003/2004.

Report of the Panel on Health Services 2003/2004

MR MICHAEL MAK (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Health Services (the Panel), I submit the Report to this Council in respect of the work of the Panel in the 2002-03 Legislative Session, and shall highlight several key areas of work of the Panel.

The Administration reported to the Panel the progress made in the collaboration on infectious disease surveillance amongst Guangdong Province, Hong Kong and Macao on 10 November 2003.

Members were particularly concerned that under the tripartite agreement on collaboration, there were no clear and objective criteria on the sudden upsurge of any infectious diseases of unknown nature or of public health significance, so that each place would know when it was required to report promptly to the other two places.

The Administration briefed members on two occasions the preventive measures taken in Hong Kong against Severe Acute Respiratory Syndrome (SARS), in the light of the recurrence of SARS in some areas of Guangdong Province in late December 2003 and in Beijing and Anhui Province in April 2004.

Members were particularly concerned that the Guangdong Province Health Department should keep the Department of Health (DH) informed of any suspected and confirmed SARS case in the first place. To speed up the notification process, members suggested that the Guangdong Province Health Department should in future report to the DH at the same time it reported to Ministry of Health (MOH) in Beijing.

Some members were concerned about the lack of a clear demarcation of duties and responsibilities between the Centre for Health Protection (CHP) and the Hospital Authority (HA) with regard to disease surveillance, epidemiology and infection control. For instance, members were unclear whether the Infection Control Branch (ICB) under the umbrella of CHP would replace the HA's Hospital Infection Control Teams.

The Administration explained that the work of the ICB would not overlap with that of the HA's Hospital Infection Control Teams as the responsibility of the latter was to implement the infection control protocol developed by the ICB. As an integrated approach would be adopted by the CHP to control health hazards, infection control protocols for both public and private hospitals and other relevant entities, such as homes for the elderly, would not be developed solely by the ICB. In the case of the development of infection control protocol for public hospitals, it would be developed in tandem with infection control experts from the HA and other relevant organizations. There was no question of any confusion occurring in times of outbreaks of infectious diseases, as the CHP would assume primacy in infection control work in times of outbreaks.

The Administration reported to the Panel in June 2004 on the key findings of its initial research on the feasibility of establishing a Health Protection Account (HPA) scheme in Hong Kong. Members' views on the HPA scheme were mixed. For example:

- the HPA scheme should not be made mandatory having regard to the fact that Hong Kong was still facing economic difficulties;
- the establishment of a mandatory social protection scheme based on a risk-pooling concept should be revisited; and
- the HPA scheme might not address the issue of sustaining the public health care system, given the modest percentage to be contributed

by the working population and that such an arrangement would invariably tie participants of the scheme to use the public health care system.

Members were generally of the view that the Administration should explore other financing options and continue to work on areas such as containing public health care cost, promoting better public/private interface, transferring patients in stable condition and rehabilitation patients to receive ambulatory care in the community and revamping HA fees and charges to better target public subsidies to those in need, to address the issue of financial sustainability of Hong Kong's health care system.

Other issues discussed

Other issues discussed by the Panel included progress on the regulation of Chinese medicine practitioners, regulation of proprietary Chinese medicines and provision of Chinese medicine service in the public sector, regulation of counterfeit pharmaceutical products, financial situation of the HA, rationalization of maternal and child health services, services and facilities for rehabilitation of discharged mentally-ill patients, way forward on the regulation of health care personnel not currently subject to statutory registration, and the current condition of Prince of Wales Hospital and the Government and the HA's plans on the way forward.

Madam President, on behalf of the Panel, I thank the Legislative Council Secretariat for their hard work over the past year. I so submit.

Thank you, Madam President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

March on 1 July

1. **MS CYD HO** (in Cantonese): *Madam President, it has been a year since 500 000 people took part in the march on 1 July last year. Some organizations*

are planning to hold a march on 1 July this year again. In this connection, will the Government inform this Council of:

- (a) the measures, policies and programmes introduced in the past year in response to the demands of the people participating in last year's march, including those relating to democratization; and*
- (b) the contingency measures the police will take to assist the participants in smoothly completing the march to be held on 1 July this year, so as to avoid the recurrence of last year's ordeal in which the march participants were stuck at the starting point for a long time under the scorching sun?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, regarding the first part of the question, there were a number of reasons for the procession on 1 July last year. It was triggered by anxiety stemming from the proposed legislation to implement Article 23 of the Basic Law (Article 23) and dissatisfaction about the governance of the Hong Kong Special Administrative Region (SAR). Furthermore, quite a number of people taking part in the procession were worried and uneasy about the economic situation then pertaining. This was further aggravated by the Severe Acute Respiratory Syndrome (SARS). During the procession, some people also expressed their aspirations about constitutional development.

As for the proposal of legislating for Article 23, the SAR Government decided shortly after the 1 July procession to shelve the legislative proposal. At present, we do not have any plan to re-submit legislative proposals to the Legislative Council. If we have plans in this regard, we will ensure that there is full and thorough public consultation.

In the past 12 months, we have enhanced and strengthened our public health care system to better prepare ourselves for a potential infectious disease outbreak. New preventive measures include establishing the Centre for Health Protection, formulating overall contingency plans and conducting drills, utilizing information technology in disease surveillance, strengthening communication with the Mainland and overseas health care institutions, and expanding the isolation facilities in public hospitals. We will continue to remain highly vigilant and will not drop our guard.

As for the economic situation, the SAR Government has adopted a series of measures to revitalize the economy in the past year. These include implementing the Closer Economic Partnership Arrangement signed with the Mainland last year, participating actively in the Pan-Pearl River Delta co-operation framework among Hong Kong, Macao and nine mainland provinces, and further promoting the Individual Visit Scheme and developing the Renminbi business. We have also arranged a number of sizable state-owned and private enterprises in the Mainland to be listed in Hong Kong and successfully launched the securitization bonds of government-owned tolled tunnels and bridges. This further consolidates the position of Hong Kong as an international financial centre.

Figures show that the economic restructuring policy implemented by the SAR Government has borne fruit. Economic growth for the first quarter of this year reached 6.8%. It is expected that the growth rate for the second quarter may close to, or even reach, double digit. The newly released unemployment rate is the lowest in the past 26 months, and the downward adjustment trend of employees' wages has improved significantly. Furthermore, the stabilization of property prices has relieved to a large extent the problem of negative equity.

Although the economic situation has improved, the SAR Government will not be complacent. The SAR Government will continue to work diligently with various sectors of the community to promote economic restructuring, establish favourable conditions for economic growth, create business opportunities, endeavour to facilitate the development of industries and promote employment. The SAR Government will also continue to set aside resources to assist the working population of Hong Kong to enhance their employment skills and to meet the demands of economic restructuring.

On the constitutional development, it is the Government's policy to support and promote the constitutional development of Hong Kong to move forward. In early January this year, the Chief Executive announced the establishment of the Constitutional Development Task Force. The Task Force has operated in a highly transparent manner and listened widely to the views of various sectors and individuals of the community through different channels. During the first three months of its establishment, the Task Force met with more than 80 organizations and individuals. In early February, the Task Force had meetings with officials of the relevant departments of the Central Authorities in Beijing to exchange views on issues relating to constitutional development. In

end March and mid-April, the Task Force published its first and second reports on the issues of legislative process and principle relating to constitutional development. Before the Standing Committee of the National People's Congress (NPCSC) made its interpretation and decision, the Task Force visited Shenzhen to reflect to the NPCSC officials the views of the Hong Kong people and explain the positions of the SAR Government.

We appreciate that some people are disappointed about the NPCSC's decision, and that they are concerned about whether or not the NPCSC's interpretation would affect the high degree of autonomy of Hong Kong. We understand that in the process of implementing "one country, two systems", some people may still have doubts which flow from the inherent differences of the legal systems in the two jurisdictions. We will continue to explain as best as we can. At the same time, the Central Authorities and the SAR Government will adhere strictly to the Basic Law, and safeguard the "one country, two systems" and the values of Hong Kong. All these elements are cherished by the Central Authorities, the SAR Government and the people of Hong Kong.

Universal suffrage is the ultimate aim prescribed in the Basic Law. The NPCSC's decision leaves the Hong Kong community with room to improve the methods for electing the Chief Executive and the Legislative Council. To assist the community to promote the constitutional development of Hong Kong in accordance with the NPCSC's decision, the Task Force published its third report in May, setting out in detail possible areas for amendments to the two electoral methods. I would like to take this opportunity to thank the individuals of various sectors of the community for participating actively in the cross-sectoral seminars organized by the Task Force. These seminars enable the community to assimilate different points of view and discuss reform options suited to the development of Hong Kong. The Task Force has also started organizing more cross-sectoral focus groups to enable a greater number of organizations, middle class and grass-roots personalities to discuss widely specific options on constitutional development.

We are fully aware of the keen public expectation for the Government to improve our governance and to better respond to the aspirations of the people. In the policy address this year, the Chief Executive put forth a number of measures to improve governance. In particular, we place emphasis on two aspects, namely enhancing public policy research and collecting the opinions of more middle class people.

As regards public policy research, the Central Policy Unit (CPU) has started active discussion with the community on ways to promote public policy research and develop the human resources required. The CPU has also formed expert groups comprising academics, experts, professionals, research institutes and think tanks to explore how best to promote public policy research and nurture the necessary talents. Furthermore, the CPU is conducting widespread consultation on selected policy research projects which are forward-looking and important. Research will commence as soon as possible.

Furthermore, starting from this April onward, the Home Affairs Department has conducted on a regular basis focus groups to invite district personalities, made up primarily of the middle class, to discuss and exchange views on various public affairs and issues of public concern. This enables the Government to better grasp the viewpoints and opinions of the middle class in formulating the relevant policies. We will appoint more middle-class managers and professionals into the Government's advisory boards and committees. We will interact more with political, social, cultural, religious and professional bodies whose core members come from the middle class. We will foster a closer partnership with the academia and tap their expertise and research findings for the policy-making process. Through many channels, we are currently liaising closely with the representative organizations and bodies in various industries and sectors to identify suitable talents.

Regarding the second part of the question, the police have always handled each and every public meeting and procession in accordance with the law. The same approach will be adopted in the handling of the procession on 1 July. The police will facilitate the smooth conduct of all lawful and peaceful public activities.

For the procession on 1 July, the police will take into account experience gained from last year's event and make suitable arrangements having regard to all circumstances and after liaising with the organizers, to enable the procession to be held in a safe and smooth manner. The police will maintain close liaison with the organizers and keep a tab on the latest developments before deploying staff and setting out traffic management measures. We trust that the procession on 1 July will be conducted smoothly, if organizers and participants co-operate fully with the police and comply with the instruction given by the police en route.

MS CYD HO (in Cantonese): *Madam President, the number of people who took part in the march last year was beyond everyone's expectation and it came as a surprise. The police officers at the scene were not given any information on any contingency plan apart from the original order and they were at a loss as to what they should do. May I ask the Chief Secretary, as the rigid approach to cope with the situation last year resulted in the crowd having to wait for five or six hours for nothing, what kind of centralized co-ordination mechanism was responsible for such a decision? How would this situation be improved this year? What will be the difference? Who will ultimately be responsible? Will it be the Commissioner of Police, the Secretary for Security or the Chief Executive?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the number of people who took part in the march last year was outside the estimations made not just by the police, but by the community of Hong Kong as well. The number came as a great surprise to the organizers at that time. After the experience gained last year, we will make many improvements this year by all means. However, even in last year, the march was held in a peaceful and orderly manner and despite the great number of people involved, things ran very smoothly.

This year we have kept in close touch with the organizers and adequate consultations have been made with regard to matters like the route of the procession, traffic arrangements, maintenance of order in the procession as well as how co-operation should be forged among the police officers and the participants on the spot, the entire route and arrangements like traffic diversion and so on. The police in their Notice of No Objection which has already been issued set out the arrangements as appropriate. I believe if the organizers and people taking part in the march can fully co-operate with the police, be rational and peaceful throughout the entire march, then the march on 1 July this year can likewise be held smoothly.

PRESIDENT (in Cantonese): Ms Cyd HO, has your supplementary question not been answered?

MS CYD HO (in Cantonese): *No, my supplementary question also touched on the question of what institution had been employed last year to co-ordinate matters related to the march. Although the Chief Secretary said that things would improve this year, no mention was made on who will be ultimately responsible, whether it is the Commissioner of Police, the Secretary for Security or the Chief Executive, as well as on the question of how this year would be different from last year.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): It is of course the police's responsibility to take control of matters on the spot, especially in matters about making the route arrangements, and so on, with the proponents and organizers of the march. Throughout the decision-making process last year, there was sufficient communication with other related departments including the Transport Department and others. As a result, people who took part in the march last year were able to proceed in a safe and smooth manner and it will be no exception this year.

MS CYD HO (in Cantonese): *The Chief Secretary has not yet answered my question on who is ultimately responsible: the Commissioner, the Secretary for Security or the Chief Executive?*

PRESIDENT (in Cantonese): Chief Secretary, do you have anything to add?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): As I have said just now, the Commissioner of Police is responsible for this, because the action to be taken this time is related to practical security matters and it is not related to matters at a policy or decision-making level. However, should the Commissioner of Police consider it necessary, the Secretary for Security and the Chief Executive would all take part and lend a helping hand.

PRESIDENT (in Cantonese): With respect to this question, the Member raising the question in her exchange with the Chief Executive has used up more than 13 minutes, so I will increase the time for questions accordingly.

MS AUDREY EU (in Cantonese): *Madam President, the Chief Secretary has twice mentioned public policy research in his main reply. In the second last paragraph of page 4 of the Chinese text, he says, "we place emphasis on two aspects, namely enhancing public policy research.....", then in page 5 of the Chinese text he also says, "This enables the Government to better grasp the viewpoints and opinions of the middle class in formulating the relevant policies". Madam President, recently I read from the newspapers that the CPU had conducted some opinion surveys which gave people an impression that the questions asked were leading questions that served to smear the reputation of some people from the democratic camp such as when mention was made of the 1 July march, there was reference that disorder might erupt and the United States might fish in muddled waters and questions were also asked on whether or not the democratic camp should be held responsible, and so on. Was this kind of survey meant, as alleged by the Administration in the main reply, to enable it to better grasp the viewpoints and opinions of the middle class in formulating the relevant policies and enhancing public policy research?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): What I have said in the main reply is about enhancing public policy research to prepare for the way forward, as well as appointing people from all sectors across the community, especially from the middle class, into the Government's committees so that policies as well as the entire decision-making process can be rationalized and modernized.

Ms EU has mentioned the internal surveys done by the CPU. First of all, I must point out that the findings of these surveys are only meant for reference and they will not be made public. The questionnaires of these surveys are designed by professionals and they are meant to help us look more closely into certain events after they have taken place, especially those which are matters of public concern. We will not make the findings public, nor conduct these surveys in such a way as to mislead us deliberately. The objectives of the surveys are not meant to serve the needs of certain groups or political parties. The surveys are all about some matters, matters of public concern. I can tell Members that the surveys include the performance of government departments and the views of the Chief Executive and principal officials on certain events and matters which are related to other political groups or parties. We will not target at a certain political group or party, or a particular event. The most important thing is that these surveys are all about specific matters of public concern. I

would like to stress that the findings are meant for reference within the Administration. There is no need for us to do anything to mislead, nor should we do so.

PRESIDENT (in Cantonese): Ms Audrey EU, has your supplementary question not been answered?

MS AUDREY EU (in Cantonese): *No, Madam President. He has not answered my supplementary question. The thrust of my supplementary question is: Are the objectives of these surveys consistent with those mentioned in the main reply, that is, to enable the Government to better grasp the viewpoints and opinions of the middle class in formulating the relevant policies? Are these surveys aimed at enabling the Government to better grasp the viewpoints and opinions of the middle class?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Excuse me, we are not just trying to grasp the reactions of the middle class to certain public policies or social phenomena. Actually, we would also like to know the views from other strata and sectors across the community.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, with respect to the internal surveys done by the CPU, is it because of their internal nature, so they can afford to be so full of prejudice, that they can besmear political parties and mislead the public through the way questions are asked? Can such surveys be regarded as a waste of public money and self-deceptive? Will they affect the understanding which the Government has of the viewpoints of various strata in society? How can they be expected to help improve the Government's administration?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the purpose of these questionnaire surveys is to make an in-depth study into certain issues and there is no deliberate attempt to ask questions in a biased manner. There is no need to mislead ourselves and we will never mislead the public. As I have mentioned earlier, the findings of these surveys

will only be used for internal reference and they will not be used for public discussions. What we pursue is the truth of the matter, especially the reasons behind it. So at times the questions asked may be too sharp as they will never be made public. The questions will therefore not arouse concern from anyone as they are only meant for internal reference purposes. As such, while the approach adopted by us to explore the issues is professional, it could be both penetrating and sharp.

MR ALBERT HO (in Cantonese): *I would still like to follow up the topic of questionnaire surveys conducted by the CPU which has been asked by two Honourable colleagues earlier. As the Chief Secretary says, the purpose of these surveys is to help the Government understand the aspirations and needs of people from different strata and formulate policies. Now the view held by people outside the Administration is that these surveys conducted by professional consultants are found to be problematic as some of these are biased and even misleading and discriminatory. May I ask the Government if it will make a review to see if this way of design or the professional competency of the company designing the questionnaires is open to question, and whether or not questionnaires of this kind would be assessed again to see if people undertaking these research projects in the Government are misled in any way?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): After this event, we have asked some experts to read the questionnaires over to see if there is anything misleading or biased. They are well-known experts in Hong Kong and they told me that there was nothing wrong with the questionnaires. If there is any expert who thinks that there is any problem with this survey, especially the questionnaires, we would be happy to learn of his views.

MS EMILY LAU (in Cantonese): *Madam President, on the march which is going to be held tomorrow, the Chief Secretary says that the police would draw reference from last year's experience to see what should be done to make the march proceed smoothly. Now according to various estimates, the number of people taking part in the march tomorrow would be in the region of 300 000, personally I would hope that there would be some 500 000 to 600 000 persons. Madam President, the biggest problem last year was that the participants were*

stuck in the Victoria Park and cramped for five or six hours because the authorities did not open up all the six lanes of traffic to the participants and only three lanes were opened. It is learned that some sort of improvement would be made this time. May I ask the Chief Secretary or the Secretary, at what time tomorrow a decision will be made to open up these six lanes of traffic so that the people will not have to pack in the Victoria Park for four, five or six hours?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): With respect to this the Commissioner of Police has made all the preparations, and as to how it would be done, I would think that the Secretary for Security would be in a better position to know of the arrangements made by the Commissioner of Police, so perhaps I would defer to the Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, with respect to handling the march on 1 July this year, the police will make the arrangements as appropriate and in line with the practical conditions. On the day of the march, the police will close the Victoria Park and the route to be taken by the procession in phases. They will enforce tidal movement crowd control measures in the vicinity of the Victoria Park. In addition, if there are signs of march participants fill up the six football pitches in the Victoria Park quickly, the police will ask the participants to set off instead of cramming there under the scorching sun. The police will make an estimation of the number of the rally and march participants. If and when necessary, more lanes of traffic would be opened up to the march participants. The purpose is to enable the procession to be held in a safe and orderly manner.

MS EMILY LAU (in Cantonese): *Madam President, what I am asking is when the lanes of traffic will be opened, but the Secretary replied that they would be opened as and when necessary. So under what circumstances will the authorities think that there is a need to open these up so that the people will not have to stand under the scorching sun or pouring rain for four, five or six hours?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I would think that the decision is left to the police commander on duty there, as the aim of

the police is to facilitate the conduct of the march in a safe and orderly manner. Having said that, another duty of the police is to maintain the smooth flow of traffic. We cannot close all lanes of traffic right from the start for this will impinge on the right of other people to use the roads. If there are really lots of people at that time, then in the interest of the safety of march participants, we will close other lanes of traffic. Though this may cause inconvenience to other road users, I still think that this is worthwhile for the sake of safety. However, I think that the responsibility should rest with the police commander on duty at the scene.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Last supplementary question.

MISS MARGARET NG (in Cantonese): *Madam President, so what the Chief Secretary has just said can all boil down to one sentence, that is, the Government has undertaken all sorts of measures to chill, water down, create doubts, fears and worries in the hope that the number of people taking part in the march tomorrow will become as small as possible and that the number of people fighting for democracy would likewise be small. Is this what the Secretary has got in his mind?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): No, not at all. *(Laughter)*

PRESIDENT (in Cantonese): Second question.

Renewable Energies

2. **MR MARTIN LEE** (in Cantonese): *Madam President, the International Conference for Renewable Energies was held in Bonn, Germany from 1 to 4 June 2004. The Conference mainly discussed the promotion of the development and use of renewable energies, with themes covering the formulation of policies, financing, human capacity building and research for renewable energies. Both the Central Government and the Government of the Hong Kong Special*

Administrative Region (SAR) sent delegates to attend the Conference. At the Conference, the Chinese delegation said that the share of renewable energies in China's total installed energy capacity would reach 10% by 2010. In this connection, will the Government inform this Council:

- (a) of the results the SAR Government has achieved by attending the Conference and the proposals it submitted;*
- (b) whether the SAR Government was involved in setting the above target in respect of renewable energies and what target Hong Kong has set in this respect; and*
- (c) as the Central Government is currently drafting the Renewable Energy Development and Utilization Promotion Law of the People's Republic of China (the Promotion Law) for the development of renewable energies, of the complementing policies or measures the SAR Government has?*

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

- (a) Developing renewable energy is a global trend, which we hail as important. The SAR Government has sent delegates to attend the International Conference on renewable energy in Bonn primarily to gain a better understanding of the advancement in renewable energy technologies and learn from the experience of other countries and regions.
- (b) The Central Government has made a huge commitment and contribution to counteracting global climate changes. The SAR Government was not involved in setting the targets, and they are not applicable to Hong Kong because the constraints and considerations of developing renewable energy in a densely populated city are quite different from those in a country. However, we attach great importance to developing renewable energy in Hong Kong. Apart from considering the recommendations of the Study on the Potential Applications of Renewable Energy in Hong Kong published last year, we have separately suggested that the Council for Sustainable

Development invite the public to discuss the related matters when it engages the public on the formulation of a sustainable development strategy of Hong Kong.

We will also take the following proactive measures to investigate the feasibility of renewable energy application:

Firstly, rendering support at the policy level — we, together with the Economic Development and Labour Bureau, will explore the role of renewable energy in the future electricity market so as to give a clear signal to the market. We will create an environment conducive to the development of small-scale renewable energy systems for private use. We will continue to urge the power companies to formulate and publish the safety specifications for power grid connection so that buildings installed with such renewable energy systems can still receive electricity supply from the power companies.

Secondly, conducting technical feasibility studies — we have undertaken a number of studies on renewable energy application. The Study on the Potential Applications of Renewable Energy in Hong Kong released last year evaluated the potential and limitations of various types of renewable energy in Hong Kong. A trial was conducted at Wanchai Tower to evaluate the performance of three types of building-integrated photovoltaic panels under the weather conditions and urban profile of Hong Kong. In addition, we will commence a wind measurement programme to set up five wind monitoring stations to collect site-specific data. Three of the stations will be located at Miu Tsai Tun, Tung Lung Chau and Town Island to facilitate the collection of wind data in the area east of Clear Water Bay in Sai Kung, which should constitute the preparatory work for a wind farm site search. The Electrical and Mechanical Services Department (EMSD) is planning for a preliminary study about the environmental impacts of land-based and offshore wind farms. We have scheduled to install a wind-power generator on top of the roof of the new EMSD Headquarters under construction to study the application of a small-scale wind-power system on buildings. We will share with the community the experience gained and the technical information

and data collected to facilitate the installation of renewable energy systems by interested parties.

Thirdly, taking the lead in tapping renewable energy in public works projects — we have required all government projects to take advantage of renewable energy as far as practicable. Examples are building-integrated photovoltaic panels installed at the Wanchai Tower, EMSD Headquarters, the fire station at Penny Bay on Lantau Island, Castle Peak Hospital Redevelopment Phase II, and Science Park; the solar panels installed at the Braemar Hill Fire Station for water heating; the automatic irrigation system powered by a photovoltaic system installed on hill slopes at Kau Shat Wan; and the wind energy and solar energy systems installed to support remote weather stations. The total power generation capacity of the above government renewable energy projects amounts to 760 kW. Their annual power output of 1.3 GWh is equivalent to the annual electricity consumption of 300 households.

Notwithstanding our above efforts, given the natural constraints and geographical limitations of Hong Kong, solar energy and wind energy are the only types of renewable energy that can be widely tapped locally. With the existing technological constraints, wind power generation needs relatively enormous space. Sites with good wind potentials, which may be suitable for building wind farms, are mostly located on hillsides or in country parks and offshore deep areas. As a metropolis with a population density of 6 500 persons per sq km, Hong Kong will most probably need to give up some green belts, or carry out large-scale marine works in order to develop wind power generation extensively. As it will inevitably give rise to a lot of issues such as planning interface problems, environmental implications, cost-effectiveness, visual impacts, and so forth, a broad consensus must be formed by all sectors of the community. In this regard, we have successfully persuaded each of the two power companies to study and then set up a production-scale wind turbine so that the public can gain a first-hand understanding of the benefits and limitations of wind power generation and judge the practicality and scope of developing wind farms in Hong Kong.

When defining clear and attainable targets for renewable energy development and working out the related implementation schedule, we must ensure that the reliability and stability of electricity supply are not compromised and give due consideration to the affordability of consumers. The development of renewable energy must also tie in with the development of the electricity market. As the existing Scheme of Control Agreements between the Government and the two power companies will expire in 2008, the Economic Development and Labour Bureau is conducting an electricity market review for 2008 and beyond. We will take this opportunity to work with the Bureau to study the role of renewable energy in the future electricity market.

- (c) With regard to the Mainland's Promotion Law, which is now under drafting, will not be applicable to SAR. However, the concepts behind it are worth our consideration, especially the provisions and corresponding policies concerning renewable energy quotas, interconnection of power supply, and tariff setting and apportionment. We will make reference to the Promotion Law when the Economic Development and Labour Bureau and we consider the role of renewable energy in the future electricity market.

MR MARTIN LEE (in Cantonese): *Madam President, will the Government inform this Council whether the Government's decision in sending non-decision-making officials to attend the Conference this time around illustrates that with regard to this important issue, the Government is adopting an active non-participation policy, or simply the measures like "The Day After Tomorrow"? If yes, I will have nothing to say. If not, what are the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, it is definitely not the case. In fact, we attach great importance to international conventions and conferences of international treaties, and we hope that the delegates we sent to attend these meetings are able to exchange information with other participants and draw reference from measures of other countries. With regard the issue of whether

we have sent Policy Secretaries to attend the meetings, I believe it is not necessary to draw a clear line in that respect. In fact, delegates are experienced people, including the Chairman of the Energy Advisory Committee and the Chief E&M Engineer of the EMSD, they have profound knowledge in the relevant field and their participation is deep.

DR LAW CHI-KWONG (in Cantonese): *Madam President, the Secretary mentioned in part (c) of the main reply that China was drafting the law relating to renewable energy. Certainly, I understand that due to "one country, two systems", the law is not applicable to Hong Kong, thus the Promotion Law will not be applicable to Hong Kong, since the legal system of the Mainland is different from that of Hong Kong. Nevertheless, the Promotion Law itself comprises a number of policy frameworks and directions, has the SAR Government considered taking them as reference and adopting them as much as possible?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I explained in part (c) of the main reply that the Promotion Law was worthy of our consideration. Nevertheless, we have to take our electricity market into consideration, too, since it will lead the development of many disciplines, and our major concern is whether we can achieve that goal. With regard to the supplementary of Dr LAW, I can reply him at this point that we would absolutely take the Promotion Law as reference.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, the Secretary said that we sent our delegation to the conference as we wished to gain a better understanding of the direction of the development of renewable energies and to draw on the experience of other countries and places. May I ask the Secretary, upon the return of the delegation, the experience of which country or region in respect of renewable energy is reported worth considering?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, in fact, the progress of a lot of advanced countries in respect of renewable energy is worth considering. However,

considering that Hong Kong is a small city, if we are going to carry out a lot of tasks in this place, which is just about 1 000 sq km in area, it would be rather difficult. However, it does not mean that we have not taken the measures of other countries and regions into consideration. Which country is doing it exceptionally well? As to countries making most of the efforts in this respect, we can take the Scandinavian countries as an example, of course their approach can be taken as reference. Nevertheless, I think it would be very difficult for me to recommend a city in particular.

MR HENRY WU (in Cantonese): *Madam President, the Secretary stated in part (b) of the main reply that the Government would take the lead in tapping renewable energy, I believe that is a commendable move, and I hope that the Government will do more in that respect. However, one can see from the main reply that the number of relevant projects is actually not great. May I ask the Secretary, besides these so-called "bits and pieces" projects, if the Government has any plan to further promote the use of renewable energies, including measures to ensure that their application will become more common as they will be used in street lighting, schools and parks?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, of course we wish to try using these renewable energy facilities in our public works projects, but we adopt a prudent attitude in implementation, since renewable energy facilities are quite costly. Certainly, the current technology is advancing continually, while the cost is going down in the course of progress. Since the future production-scale and largest renewable energy facilities (wind-power system) belong to the two power companies, we would assist them to build two production-scale wind-power generators which could generate over 600 kW of power (this is quite enormous in scale) by way of co-operating with them. With regard to these two wind-power generators, one of the sites has been located and there are already plans to carry out the construction works, while the location of another site is still under consideration. I believe we can conduct a larger-scale pilot run in the near future.

MR HENRY WU (in Cantonese): *Madam President, the Secretary has not answered my supplementary. Since she only mentioned large-scale projects,*

while I was talking about some common works projects. I have also cited some smaller-scale works, including small-scale projects relating to street lighting, schools and parks. The Secretary has not answered my supplementary, for she has only answered questions about large-scale projects.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, if it is about large-scale application, I believe before we make use of them, we should conduct a detailed survey beforehand. For street lighting purpose, we should ensure that the street lamps should be put in place first. Therefore it will involve the use of renewable energy on the one hand, and the connection with our power grid on the other. With regard to what I have said, if the agreements between the Government and the two power companies and other conditions permit, a lot of things can be done, otherwise, we have no plans for a large-scale pilot run for the time being.

DR RAYMOND HO (in Cantonese): *Madam President, over the years, many people have urged the Government to speed up the development of renewable energy projects, but the Council for Sustainable Development was only founded after a dragging of the feet by the Government for years. The Secretary also explained that with regard to our participation in the Conference this time around, Hong Kong was not involved in setting the targets, and they were not applicable to Hong Kong. The Secretary also explained that we had undertaken a number of studies, including the trial of photovoltaic panels and wind measurement. Hong Kong has the potentials of solar power, hydro-electric power and wind power for development, but why has the Secretary missed this opportunity in not involving ourselves in the formulation of the entire plan before we have the knowledge of the situation after the targets are set?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I do not understand which project Dr HO is referring to. Is he talking about the International Conference held in Bonn?

PRESIDENT (in Cantonese): Perhaps I should allow Dr HO to clarify that point.

DR RAYMOND HO (in Cantonese): *Madam President, my supplementary aims at what the Secretary said in part (b) of the main reply. She said the SAR Government had not been involved in setting the targets, and they were not applicable to Hong Kong. This is what I wish to ask.*

PRESIDENT (in Cantonese): These targets are targets on the Mainland, right?

DR RAYMOND HO (in Cantonese): *Madam President, they are targets set by the Central Government. Yes, they are targets on the Mainland set by the Central Government, but the Secretary still has the chance to raise her opinion about mainland targets in this international conference. If we were involved, then our proposal and experience could also be raised in the international conference like this.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I think I should explain that here. We were not involved in the Central Government's drawing up of its Promotion Law and targets. With regard to the targets, I said that they were not applicable to Hong Kong because of "one country, two systems". I only meant so from the legal and system perspective.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary.

DR LAW CHI-KWONG (in Cantonese): *Madam President, the Secretary mentioned in part (b) of the main reply that they would require all government projects to take advantage of renewable energy as far as practicable. May I ask the Secretary whether she will consider using renewable energy in newly built schools, primary and secondary schools or even tertiary institutes as far as practicable?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, this is precisely the issue we have discussed

for many times. If we adopt renewable energies, for example, solar power, as it is more practicable, the costs involved will certainly increase while the power generated by the solar-power system may not necessarily offset the investment costs. Certainly, it does not mean that we are not going to develop renewable energies. I am just of the view that if we use solar-power generators to generate power, for instance, and if the remaining power can be returned to the power grid, then it is worthwhile. For that reason, it is still a matter of the agreement relationship between the power companies and us. Nevertheless, in view of the situation, I have a suggestion, which we are still looking into, that is, we hope to conduct some demonstration projects in schools, as they are small in scale, to adequately demonstrate to our younger generation of the feasibility and benefits of renewable energies. In so doing, we can educate and enlighten them in this respect, and hopefully they will become interested in further exploring the application. I believe that in their future lives, renewable energy will become an important means of power generation.

PRESIDENT (in Cantonese): Third question.

Independent Non-executive Directors of Listed Companies

3. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, with regard to enhancing the roles and functions of independent non-executive directors (INEDs) to strengthen the corporate governance of listed companies, will the Government inform this Council:*

- (a) *of the measures to enhance the capability and quality of the INEDs in monitoring the companies;*
- (b) *of the policies which can ensure due diligence of INEDs in supervising the management and operation of the companies so as to protect shareholders' rights and interests; and*
- (c) *whether it has conducted studies on the INED systems implemented in other countries; if it has, of the results of the study and the areas of such systems from which experience can be drawn by Hong Kong; if no such study has been conducted, of the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, first of all, I would like to thank the Honourable SIN Chung-kai for raising this question as corporate governance has always been my greatest concern, and I also fully recognize the importance of INEDs of listed companies. INEDs can monitor the companies in an objective manner as "independents" and give independent views when there is a conflict of interests between the management and the companies themselves. This is of vital importance to the protection of shareholders' interests.

The Corporate Governance Review (CGR) conducted by the Standing Committee on Company Law Reform (SCCLR) covers the INED systems. In the process of the review, the SCCLR has examined such systems implemented in other countries such as the United Kingdom, the United States, Australia and Singapore. A number of the final recommendations of the CGR Phase II published by the SCCLR early this year are concerned with the INEDs. At present, the Government, the Securities and Futures Commission (SFC) and the Hong Kong Exchanges and Clearing Limited (HKEx) are implementing these recommendations, with a view to upgrading the quality of INEDs and assisting them to supervise with due diligence the management and operation of the companies.

As a first step in implementing these recommendations, the Companies Registry (CR) published, in January this year, the Non-statutory Guidelines on Directors' Duties, as drawn up by the SCCLR, to help directors better understand their duties of care and skill and fiduciary duties. For instance, the Guidelines reminds the directors of their duty to act for the benefit of the company as a whole and to avoid conflicts between personal interests and the interests of the company.

The Hong Kong Institute of Directors (HKIoD) has been playing an important role in enhancing the quality of directors. I understand that the HKIoD provides training courses and continuing professional development programmes for directors to give them a better understanding of their duties under the Companies Ordinance and the Listing Rules. It has also prepared and published guidelines on the conduct, integrity, duties, and so on, of directors. For instance, a pamphlet on how the directors of small and medium enterprises should enhance governance and on their due responsibilities was published several months ago.

Regarding duties of and requirements for INEDs of listed companies, they are set out in the Listing Rules of the HKEx and the Code on Corporate Governance Practices (the Code), which is expected to take effect on 1 January next year. Most of the provisions of the Code will become effective for accounting periods commencing on or after January next year. The abovementioned rules and code are made by the HKEx and approved by the SFC. The two regulators will review and update the requirements from time to time in light of market needs and international standards and practices.

To ensure that the board of directors of a listed company has sufficient number of INEDs to provide independent views to the board, the HKEx has amended its Listing Rules so that the minimum number of INEDs of a listed company has been increased from two to three; at least one of the INEDs must have appropriate professional qualifications or accounting or related financial management expertise. The new requirements already came into effect on 31 March this year, with a transitional period of six months.

To enhance the capability and quality of directors, the HKEx specifies in its Code that every newly appointed director should receive a comprehensive, formal and tailored induction on the first occasion of his appointment, and subsequently such professional training as is necessary, to ensure that he has a proper understanding of the operations and business of the listed company and that he is fully aware of his responsibilities under statute and common law, the Listing Rules, applicable legal requirements and other regulatory requirements and the business and governance policies of the company. Listed companies are required to state in the Corporate Governance Report of their annual reports whether they have complied with the above requirements. Listed companies have to explain in the Corporate Governance Report any deviations from the requirements, as in the case of other provisions of the Code.

The Code also recommends that all directors should participate in a programme of continuous professional development to develop and refresh their knowledge and skills. The Code also recommends that listed companies should be responsible for arranging and providing the necessary resources for a suitable development programme.

In addition, the Code sets out recommendations on enhancing the capability of INEDs. For example, listed companies should establish a

nomination committee which is responsible for, amongst others, assessing the independence of INEDs and reviewing the skills, knowledge and experience of directors.

The Listing Rules stipulate clearly that every director must, in the performance of his duties as a director, act honestly and in good faith in the interests of the company as a whole and fulfil duties of skill, care and diligence. In the case of wilful or persistent failure of a director to discharge his responsibilities under the Listing Rules, the HKEx may impose sanctions on him, such as issuing a public statement which involves criticism or a public censure, and so on. The above requirements also apply to INEDs. An INED must satisfy the HKEx that he has the character, integrity, independence and experience to fulfil his role effectively. Separately, to ensure the independence of INEDs, INEDs are required to submit to the HKEx a written confirmation in respect of their independence. They are also required under the Listing Rules to inform the HKEx as soon as practicable if there is any subsequent change of circumstances which may affect their independence.

In addition, the Code requires that every director should ensure that he can give sufficient time and attention to the affairs of the listed company and should not accept the appointment if he cannot do so. The Code also recommends that every director, including INED, should disclose to the listed company at the time of his appointment the number and nature of offices held in public companies or organizations and other significant commitments, with the identity of the public companies or organizations and an indication of the time involved.

The Code also requires that INEDs should participate in board meetings to bring an independent judgement to bear on issues of strategy, performance, resources and key appointments and standards of conduct, and should take the lead where potential conflicts of interest arise.

Apart from participating in board meetings, INEDs need to serve on other committees. For instance, the Code requires listed companies to establish a remuneration committee with specific written terms of reference; a majority of the members of the remuneration committee should be INEDs. The terms of reference of the remuneration committee includes the making of recommendations to the board on the establishment of a formal and transparent procedure for developing policy on remuneration.

The Government and the relevant regulatory authorities including the SFC, the HKEx and the CR, will continue to strive for enhancing corporate governance. The Government also plans to implement various complementary measures, for examples, the proposed establishment of an Independent Investigation Board to deal with the investigation of auditors and a Financial Reporting Review Panel, and so on, to upgrade market quality with a view to further consolidating the status of Hong Kong as an international financial centre. However, at the end of the day, nobody is in a position to legislate on ethics. Therefore, to nurture good corporate governance culture, we cannot rely on legislation or the implementation of policies by the Government alone. Concerted efforts by the community, especially the listed companies and the investing public, are necessary for bringing about changes in corporate culture and enhancing corporate governance.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I wish to follow up the point on the transitional period of six months mentioned in the sixth paragraph. Is the Government confident that most or even all listed companies will be able to increase the number of INEDs from two to three as required? Is there any concern that there may not be a sufficient number of INEDs? What punitive actions will the Government take against companies for failed compliance?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the practice of increasing the number of INEDs of listed companies from two to three was actually implemented in March this year, but there is a transitional period of six months. I know that many companies are looking for INEDs whom they consider to be suitable. The HKEx will keep a close eye on this, and there have been press reports that there is an insufficient number of competent persons. Actually I have expressed in my own column the wish that retirees such as former accountants and lawyers can come forward to render their assistance in enhancing the corporate governance of Hong Kong. It will be most desirable if they can assume such a role. We hope that there will be no such problem. In the event that certain companies meet such difficulties, I believe they would submit an application to the HKEx. By that time, I believe the Listing Committee of the HKEx will be sympathetic about their situation and will determine whether the problem is serious.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, just now I asked about the punitive actions that the Government would take against listed companies for failed compliance. He has not answered this part of the question.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, does Mr SIN Chung-kai mean whether these companies will be punished? I believe we should take a sympathetic look at the issue. As I am not the regulatory body, I am not the HKEx, I do not know. However, I believe the HKEx will be sympathetic about the situation of the relevant companies and may give them some more time. If Mr SIN Chung-kai makes such a request, I can refer it to the HKEx and ask them what punitive actions they will take.

MR HENRY WU (in Cantonese): *Madam President, I am very pleased that there will be enhancement in corporate governance. However, I wish to ask something similar to the supplementary question raised by Mr SIN Chung-kai. My supplementary question is: Does the Secretary know how many so-called directors, non-executive directors or INEDs of listed companies are unable to meet the requirements of the proposed Code? As indicated by the paper, the Government is going to implement the requirements around January next year. If so, how can it ensure that these persons will be able to meet such requirements?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, may I ask Mr Henry WU to clarify whether his question is about the increase in the number of INEDs from two to three, or the Code to be implemented on 1 January?

MR HENRY WU (in Cantonese): *Madam President, I am talking about the Code to be implemented on 1 January — not only INEDs, but directors and non-executive directors as well.*

PRESIDENT (in Cantonese): It is the latter, Secretary.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, actually, we made known this paper to various sectors on 1 January this year. I believe that a transitional period of one year is very long and there should be no problem. However, I believe the HKEx will keep a close eye on this.

MR HENRY WU (in Cantonese): *Madam President, I actually asked the Secretary in the first part of my supplementary question whether he knew how many serving directors and non-executive directors were unable to meet the requirements of the Code.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I do not know, but if Mr Henry WU wishes to know, I can enquire with the HKEx as well.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I have received the views of a number of persons who raised a point, that is, even for some listed companies, say if I am the major shareholder or chairman of a company, I may approach Henry WU's company and Henry WU may also approach SIN Chung-kai's company, thus there may be secret dealings. There seems to be an extensive circulation of news about such cases in the trade. What action can the Government take against this?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I do not think that there is any problem if a capable person acts as an INED for several companies. I do not know what "secret dealings" that Mr SIN Chung-kai said mean, but I think there should be no problem if a capable person takes up the position of INED of your company as well as mine. I think that what matters most is that he is independent and capable, and what matters most and the utmost is that he works in the interest of shareholders.

MR JAMES TO (in Cantonese): *Madam President, I think what matters most is that A is an INED of B's company and B is an INED of A's company. The reply just made by the Secretary implies that it is fine so long as he is capable. However, besides ability, there is still the question of whether he is really independent, whether he is an INED. If all of them extend such invitations to one another, will the public doubt that A is not really independent at all when he acts as the INED of B's company?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, actually all this has to be disclosed, that is, the name of the company and one's responsibility in it have to be disclosed, and all shareholders will definitely note it. If they are in actual fact not independent, I wish the shareholders would raise their questions at the general meeting of shareholders. We all know that shareholders' approval must be sought for the appointment of any director, and shareholders have the absolute right to exercise their right of not approving the appointment of a certain person as a director.

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

MR SIN CHUNG-KAI (in Cantonese): *Madam President, may I follow up the supplementary questions raised earlier by me and Mr James TO? Is it possible to draw up a rule in the Code mentioned to eliminate such things as the reciprocal appointment of INEDs mentioned by me earlier? Do you think that this is feasible?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I of course cannot comment on individual cases. However, as I said earlier, all particulars must be disclosed. If shareholders eventually have doubts about the independence of a director and think that he is not a suitable person, they can exercise their right to refuse his appointment to the board of directors. Therefore, I feel that the entire process, that is, from disclosure of particulars to the granting of approval for a certain person to take

up the position of INED, has adequate transparency. In addition, before taking up the position, they have to complete a form comprising 10 to 20 pages, which must also be endorsed by a Justice of Peace or other persons, for submission to the HKEx. Therefore, I believe the entire process has a very high degree of transparency. Furthermore, as I said earlier, shareholders have the absolute right to veto the appointment as directors of persons who they think, as Mr SIN Chung-kai said, have "secret dealings" and are not independent.

PRESIDENT (in Cantonese): Fourth question.

Premium Concession Provided to Television Broadcasts Limited

4. **MR JAMES TO** (in Cantonese): *Madam President, the Chairman of the Television Broadcasts Limited (TVB) wrote to the Chief Executive in January 1998 concerning the prevailing policy of not allowing service industries to operate in the industrial estates (IEs), and that policy was relaxed in May of the same year. The authority concerned signed a lease agreement with TVB in May 1999. But about a year later, it signed another agreement with TVB, under which the premium was \$44 million lower than the original agreement. In response to the queries raised by the public concerning the revised land premium, the authority concerned advised that the premium concession was offered in view of the magnitude of land requirement and investment of the project. In this connection, will the Government inform this Council:*

- (a) *of the justifications for the policy change regarding the land grant of the IEs;*
- (b) *apart from the investment magnitude mentioned above, of the other criteria adopted by the authority concerned to provide TVB with the premium concession and allow it to rewrite the agreement a year later; and*
- (c) *whether the TVB case is the only case of granting concessions to investors according to the investment magnitude; if not, of the other cases?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, my reply is as follows:

- (a) The then Trade and Industry Bureau and the then Hong Kong Industrial Estates Corporation (HKIEC) carried out a comprehensive review on the IEs' admission criteria in 1997 in response to the ongoing restructuring of the local economy leading to a drop in the demand for land in the IEs by the manufacturing industry and the ever-increasing contribution of the service industry to Hong Kong's Gross Domestic Product. In March 1998, the Administration consulted the Industry and Technology Development Council and the Panel on Trade and Industry of the Provisional Legislative Council on the findings of and the proposal in the review. The Chief Executive in Council subsequently approved the proposal in May 1998, such that service industries which could not be accommodated in ordinary multi-storey buildings were allowed for admission into the IEs, subject to compliance with the selection criteria. Therefore, the policy of expanding the scope from the manufacturing industries to service industries was formulated after careful consideration of the local economic conditions and thorough public consultation, and in accordance with the established procedures. The change was not made for the sake of any particular company.
- (b) According to the information provided by the Hong Kong Science and Technology Parks Corporation, the former HKIEC received the TVB's proposal for land premium for a 9-hectare site in November 1998. The HKIEC then started to negotiate land premium with TVB on a commercial basis in accordance with the HKIEC's established procedures. During the negotiations between the HKIEC and TVB on the terms of land grant, TVB agreed to accept the prevailing standard land premium, but at the same time, that is, before signing any agreement, requested that the TVB could adopt a revised land premium if the HKIEC's strategic review which was then in progress led to a reduction in the standard land premium.

When considering the TVB's application in January 1999, the HKIEC Board considered the impact of the Asian financial turmoil

on Hong Kong's economy, the very low demand for the IEs' industrial land, and that the TVB's application was the largest in terms of land requirement and investment received by the HKIEC so far. If TVB chose not to move into the IE or even relocated its operation outside Hong Kong because the land premium negotiations failed and its requests were not acceded to, it would be a loss of a large investment project to the IEs and Hong Kong.

Based on the outcome of negotiations between the HKIEC and TVB, the Board approved the TVB's application along the commercial principles, and agreed that TVB could adopt a revised land premium if the HKIEC's strategic review which was then in progress led to a reduction in the standard land premium. When the HKIEC approved the TVB's application, the HKIEC had already accepted the TVB's request. There is no question that the HKIEC re-negotiated and approved a land premium reduction after the land lease had been signed.

- (c) The land premium arrangement for TVB was based on the outcome of negotiations between the HKIEC and TVB, and was approved by the HKIEC basing on commercial principles. The HKIEC Board had considered various factors, including the facts that the TVB's application was the largest in terms of their land requirement and investment received by the HKIEC so far; the impact of the Asian financial turmoil on Hong Kong's economy; and the very low demand for industrial land at that time.

According to the information provided by the Hong Kong Science and Technology Parks Corporation, there is no other IE land grant arrangement that is similar to the TVB's.

MR JAMES TO (in Cantonese): *Madam President, in the main reply, the Secretary seemed to put emphasis on the five factors considered by the HKIEC in 1999, namely, the Asian financial turmoil, low demand for industrial land, the magnitude of TVB's application, its possible relocation outside Hong Kong and the possible loss of a large investment project. At the same time, it was reported that a number of other multinational corporations had also indicated*

interest, for instance, major consortiums like H&Q Asia Pacific, Silicon Magic, Bullet Chain were also interested in investing here. These companies, apart from being substantial applications, also bore the possibility of relocating outside Hong Kong and becoming major investment projects that could inject new elements and vitality under the then Asian financial turmoil. Why were these other consortiums not given the same kind assistance, and why did they face so many difficulties in application?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the conditions involved in each investment project were different, and the magnitude of investment was only one of the considerations. Since the Honourable Member mentioned the example of H&Q Asia Pacific, perhaps I could talk more about the circumstances surrounding this case. In 2000, the H&Q Asia Pacific discussed with the Government about their plan of building a semiconductor wafer manufacturing plant in Hong Kong, but the problems involved were very complicated, including funds, technology, land supply, taxation, and so on. Like the other corporations you have just mentioned, all along, this company was unable to provide the Government with the requisite information during the discussion process. Our discussion with this company and others never reached a definitive stage. Thus, they were very different from the application in question.

MR ALBERT HO (in Cantonese): *Madam President, regarding TVB's acquisition of land in the IEs, what is so special about this project? Let alone allowing it to change the land use, when signing the agreement, a condition was also attached which allowed it a further reduction if the review of land premium led to a downward adjustment. It means that notwithstanding the signing of an agreement, the land premium could still be revised downward if there was a reduction in the land premium. What I want to ask is: Firstly, as far as you know, has the HKIEC ever signed agreements of this sort? Secondly, was the same condition also applicable to other land buyers then, and were they informed of such a condition? Could they also request the same condition and the same treatment? If not, was it because TVB had specifically raised the question with Mr TUNG Chee-hwa and the decision was influenced in view of the relationship between the Chief Executive and the company?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, this is a very exceptional case with no other case of the same nature. However, I can tell Members that the HKIEC did inform other applicant companies. There were five companies making applications at the same time then. One of them was TVB, the other three were related to land and plant acquisition, but different with the case in question, and another one involved only in land acquisition. We did inform this last company that we had a review in progress. The HKIEC proposed to this company that the land premium could be calculated on the basis of the new standard land premium should the outcome of the review lead to a reduction. However, in this particular case, the company finally chose to complete the land lease on the prevailing land premium rather than the new land premium.

MR ALBERT HO (in Cantonese): *The reply given by the Secretary just now was not clear; perhaps it is because I have not made myself clear. What I was asking is: Since TVB was given such a special arrangement that the land premium could be further reduced even after the land lease had been signed, may I ask the Secretary if other people knew that they could have the same option? As you mentioned that there had been five companies, can you clearly tell me if these five companies were aware of the special arrangement given to TVB, if they knew that they could make the same request and whether they had done so? The Secretary has not answered the last part of my question, that is, whether it was because TVB had sought assistance from the Chief Executive that the issue became your major consideration in making this special arrangement.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): It has nothing to do with the Chief Executive's Office (CE's Office). Our other negotiations with TVB were conducted in accordance with commercial principles. Thus, we did not make public the agreement on this issue. However, as I have just said, there were a few other companies applying for land, and one of them was similar to the case in question, involving only land acquisition. We informed them that we had a review on the land premium in progress, and that they could choose to calculate the land premium in accordance with the new standard land premium should the review lead to a reduction in the land premium. Nevertheless, they did not choose to go in this direction.

DR RAYMOND HO (in Cantonese): *Land is scarce in Hong Kong and the Government has expended a lot of resources on land formation. We all believe that the Government should have sufficient land reserve to cater for any unexpected demands. If the number of applicants for the IE and the demand for land are low at a time, it does not mean that it will remain so for a longer period of time. Instead of giving concessions to applicants with larger land requirement and greater investment scale, should the Secretary perhaps not consider the needs of small and medium enterprises which are eligible to operate in the HKIEC and give them more encouragement?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I have mentioned the prevailing situation in my main reply and Mr James TO also pointed out that there were five areas to consider. The prevailing situation included the impacts of economic restructuring and the Asian financial turmoil. Besides, as the application in question was exceptional, we felt that if we lost this investment project, it might be a major loss to Hong Kong and thousands of employment opportunities might be relocated outside Hong Kong. We therefore supported the decision they made.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, in the whole process, did the CE's Office ever write to the Science Park or the Commerce, Industry and Technology Bureau? Did it give the Science Park any document or written advice?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): About this case?

MR SIN CHUNG-KAI (in Cantonese): *Yes, this case.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, we did mention that two letters had been sent to the CE's Office. In accordance with our usual practice, the CE's Office

forwarded the two letters to the Bureau for handling under the normal procedure, and no instruction against the normal practice was given.

MR ALBERT HO (in Cantonese): *Madam President, the Secretary has pointed out clearly in his reply to my supplementary question that TVB could sign the agreement in 1998 at the prevailing land premium and in future, if the premium was lowered, it could be offered the lower premium. However, other companies did not know that, firstly, such a procedure for reduction in future was in place and secondly, even for the company mentioned by the Secretary just now, it was only given an option of not signing the agreement first, but to sign at the price resulting from the completion of the review. It was no option at all. Yet, while TVB was given such an advantage that it might sign at the prevailing premium first and be offered a lower price should it go down later on, the other company had to risk a bet as it was not given the option. It had to risk paying a higher premium if the review resulted in an upward adjustment. Was the matter very unfair in itself? Furthermore, in the whole case, it seemed that there was no clear procedure for people to follow. In the press conference held earlier on, even the Administration pointed out that there was no established procedure; the special consideration was given in view of the magnitude of TVB's investment. Would the whole case give people an impression that the Government was unfair, very biased and that it could act arbitrarily, or even produce a repeated version of certain cases? Just like the Cyberport case, would it happen again at any time?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): *Madam President, it was a matter handled by the HKIEC and also a process of negotiation. The HKIEC made its decision according to commercial principles. Given the magnitude of the investment, it was treated as an isolated case in accordance with the commercial principles and would certainly be different from other cases.*

MR ALBERT HO (in Cantonese): *Did your reply mean that it could be unfair? As long as it is a commercial case, you can do whatever you want? Regarding the case as I understand it, do you accept that it can be unfair and arbitrary? Just as the justification put forward by the Secretary, since it involved the commercial operation of a company, it could be so.*

PRESIDENT (in Cantonese): Mr Albert HO raised this point in his first supplementary question: Does the Government think the approach is unfair?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I think it has nothing to do with fairness, but a price negotiation process according to commercial principles. If the agreement is accepted by both parties, the decision is such.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Last supplementary question.

MR JAMES TO (in Cantonese): *Madam President, the Secretary said it was a negotiation process, but actually it was not the case. In fact, on 11 November 1998, TVB submitted an application to the HKIEC which made a counter offer of a 15% discount. However, one month later, on 21 December 1998, the Chairman of TVB wrote to Mr TUNG citing the case and saying that the discount was not enough. In January 1999, the authorities coincidentally accepted a further reduction. If the case merely involved negotiations, may I ask the Government how the letter received by Mr TUNG was passed onto the HKIEC or relevant parties? What kind of advice (verbally or in writing) were they given? Did he give his opinion to the Secretary? Would the Government not feel amazed that in the process of negotiation, the applicant suddenly wrote to Mr TUNG and was offered a further reduction a month later?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, during the period between 1998 and 2000, the HKIEC conducted two land premium adjustment exercises. Both exercises were made having regard to the prevailing poor economy, the declining market price and the reducing demand for industrial land. These adjustments were not made specifically for a certain company, and had absolutely nothing to do with the Chief Executive. The HKIEC Board held a meeting in 1998 (it was 7 December as mentioned above). In view of the poor economic climate, the Board decided to adjust the price downward by 15% to cater for the market situation, in the hope of attracting more applications. Subsequently, on

25 February 2000, the HKIEC Board held another meeting to consider the Consultant Report. The consultants were commissioned to conduct a study in view of the prevailing situation, to look into the necessity of further adjustments. According to the Consultant Report, compared with similar land in Asia, the premium offered by the HKIEC was on the high side, thus making our land premium less competitive. The HKIEC Board accepted the analysis the management made on the premium trend and land demand, as well as all the related recommendations. On the same day (25 February), the land premium of IE was further reduced by a rate from 15.8% to 21.3%. Those were the two land premium adjustment exercises.

MR JAMES TO (in Cantonese): *The fact that I want to know is: On 21 September 1998, what did the Chief Executive do when he had received a letter from the Chairman of TVB? Did the CE's Office or the Chief Executive himself ever discuss the letter with the HKIEC or the Secretary? Could the process be disclosed? It was because the public were amazed that in the following month, there were changes in the case.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the review was indeed started in December 1998, and the reduction of 15% for the first time was an interim measure. As we saw that the land premium was sliding quickly, so with a view to keeping up with market condition and attracting more applications, the HKIEC Board must act proactively. The first step was to adjust the price downward by 15% as an interim measure. After the completion of the Consultant Report, another adjustment of nearly 20% was made in 2000.

MR JAMES TO (in Cantonese): *In fact, I want to know if the Chief Executive or the CE's Office has conducted any discussion on the letter in question. The Secretary seemed to suggest that nothing had been done when replying other Members. I hope the Secretary can clearly give me a reply as to whether anything has been done after the letter was received by the Chief Executive or the CE's Office.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): After the letter was received, the CE's Office passed it onto the Bureau for handling in the normal way.

PRESIDENT (in Cantonese): Fifth question.

Flexible Ranking System

5. **MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, in accordance with the flexible ranking system, the implementation of which was approved by the Finance Committee in 1991, the Secretary for the Civil Service may create supernumerary posts at a higher rank held against the permanent posts in various Hong Kong Economic and Trade Offices (ETOs) outside Hong Kong, so that an officer taking up the relevant ETO post may receive a salary higher than the existing salary for the post. In this connection, will the Government inform this Council:*

- (a) *of the implementation of the system since the reunification, together with an annex setting out the names of the ETOs, the titles and ranks of the permanent posts and the ranks of the supernumerary posts involved, the names and terms of office of all such officers, the posts and substantive rank of each officer before assuming office, as well as the differences in salary before and after they assumed duty;*
- (b) *whether it has assessed if the practice, which allows a post to be taken up by an officer at a rank higher than that required of the post, constitutes misuse of public funds; if the assessment result is in the negative, of the rationale; and*
- (c) *whether it will review the implementation of the system and consider giving up the power to create these supernumerary posts and, instead, submitting the relevant applications to the Legislative Council?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, after considering the submission from the Administration, the Finance Committee in June 1991 approved a flexible ranking system for the ETOs of the Government to facilitate the Administration in making suitable posting

arrangements in respect of directorate heads and deputy heads of these offices. Under this system, the Secretary for the Civil Service has been delegated the authority to create supernumerary posts at predetermined higher rank held against the permanent posts of the lower rank in the following situations:

- (i) an officer is promoted during his/her external posting to a rank higher than the rank of the post he/she occupies at the time of promotion;
- (ii) the substantive rank of an officer to be posted to an ETO, at the time of posting, is already higher than the rank of his/her new post in the ETO;
- (iii) the most suitable officer to be posted to an ETO has already been identified as suitable for acting in a higher rank in accordance with the established procedures; and
- (iv) in accordance with the established procedures, an officer already posted to an ETO is identified for and would be offered an acting appointment at a higher rank had he/she remained in Hong Kong, but it is necessary to retain the officer's service in the ETO due to operational needs.

Owing to their representational role, the directorate heads and deputy heads of the ETOs must be mature and experienced officers with well-honed skills in negotiation, lobbying and public relations. Based on past experience, it is difficult to attract and retain suitable officers to fill these posts. The reasons include: the pool of suitable candidates at the designated ranks of the concerned ETO posts is relatively small; the officers have to work outside Hong Kong and their family and social lives would be disrupted; and since the normal duration of an external posting is generally three years, suitable officers may be concerned that being posted outside Hong Kong may affect their acting and promotion prospects and hence have reservations about taking up such postings. The flexible ranking system helps expand the pool of potential candidates for external postings and ensures that officers posted outside Hong Kong are entitled to the same opportunities for acting appointments and promotions as their counterparts in Hong Kong. Suitable officers would therefore be more willing to take up external postings.

My response to the three parts of the question is as follows:

- (a) The introduction of the flexible ranking system is totally unrelated to Hong Kong's reunification with the Mainland. The implementation details of the system in the past seven years, including the names of the concerned offices; the titles and ranks of the permanent posts involved; the ranks of the posts when adopting the flexible ranking system; the names and terms of office of the officers involved; the posts and substantive rank of each officer before assuming office; as well as the differences in salary before and after they assumed duty in the ETOs, are set out in detail at the Annex.
- (b) The flexibility provided by the flexible ranking system would ensure that suitable candidates are willing to take up external postings. The Civil Service Bureau would consult the Commerce, Industry and Technology Bureau in arranging each posting. We would also consult the Chief Executive, the Chief Secretary for Administration and the Financial Secretary on posting arrangements in respect of directorate heads of the ETOs in Washington, London, Brussels, Geneva and Tokyo to ensure that the most suitable arrangements would be made. It is worthy to note that of the 18 directorate head and deputy head ETO posts to which the flexible ranking system applies, higher-ranking supernumerary posts are created under the flexible ranking arrangement only in respect of six of these posts currently. This demonstrates that all posting arrangements made in accordance with the flexible ranking system are well justified to meet operational needs. There is no question of misuse of public funds.
- (c) The existing flexible ranking system has been implemented for quite a number of years and has been operating satisfactorily. It is effective in facilitating the posting of directorate heads and deputy heads in the ETOs, enabling us to arrange suitable officers to take up these posts, thus ensuring the smooth operation of the ETOs. It is in the overall interest of Hong Kong to continue to maintain and implement this effective arrangement.

Implementation of the Flexible Ranking System in respect of
the Directorate Head and Deputy Head Posts in the Hong Kong Economic and Trade Offices (ETO) since 1 July 1997

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
Brussels Office	Special Representative for Hong Kong Economic and Trade Affairs to the European Communities/ AOSGB1	AOSGA	17,500	Andrew WONG	Director of Administration/ AOSGA	AOSGA	22 March 2004 to present	Nil
				Christopher JACKSON	Director-General, Hong Kong Economic and Trade Affairs, Washington/ AOSGA	AOSGA	8 January 2001 to 29 February 2004	Nil
	Deputy Representative for Hong Kong Economic and Trade Affairs to the European Communities (1)/AOSGC	AOSGB	14,380	Linda LAI	Deputy Secretary (2), Transport Bureau/AOSGB	AOSGB	8 January 2001 to present	Nil
				Mary CHOW	Principal Assistant Secretary (Environment)2, Planning, Environment and Lands Branch/ AOSGC	AOSGC; Started acting AOSGB on 21 March 2000	6 July 1996 to 6 December 2000 (21 March 2000 to 6 December 2000)	Nil (Actual difference in monthly salary before and after the acting appointment was \$7,650)

Notes:

AOSGA = Administrative Officer Staff Grade A
AOSGB1 = Administrative Officer Staff Grade B1
AOSGB = Administrative Officer Staff Grade B
AOSGC = Administrative Officer Staff Grade C

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
	Deputy Representative for Hong Kong Economic and Trade Affairs to the European Communities (2)/AOSGC	AOSGB	14,380	Anthony WOO	Principal Assistant Secretary (Special Duties), Education and Manpower Branch/AOSGC	AOSGC; Promoted to AOSGB on 1 January 1994	9 September 1991 to 30 September 1997 (1 January 1994 to 30 September 1997)	Nil (Actual difference in monthly salary before and after the promotion was \$8,000)
Geneva Office	Permanent Representative of the Hong Kong Special Administrative Region of China to the World Trade Organization/ AOSGB1	AOSGA	17,500	Joshua LAW	Director-General of Trade and Industry/AOSGA	AOSGA	16 September 2002 to present	Nil
				Stuart HARBINSON	Deputy Secretary (1), Civil Service Branch/AOSGA	AOSGA	5 September 1994 to 9 September 2002	Nil

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
	Deputy Representative of the Hong Kong Special Administrative Region of China to the World Trade Organization (1)/AOSGC	AOSGB	14,380	Flexible ranking arrangement has not been invoked since 1 July 1997.				
	Deputy Representative of the Hong Kong Special Administrative Region of China to the World Trade Organization (2)/AOSGC	AOSGB	14,380	Michael STONE	Deputy Secretary (2), Civil Service Branch/AOSGB	AOSGB	17 March 1997 to 30 April 2001	Nil

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
	Deputy Representative of the Hong Kong Special Administrative Region of China to the World Trade Organization(3) /AOSGC	AOSGB	14,380	Flexible ranking arrangement has not been invoked since 1 July 1997.				
Guangdong Office	Director, Hong Kong Economic and Trade Affairs, Guangdong/ AOSGB	AOSGB1	17,250	Flexible ranking arrangement has not been invoked since 1 July 1997.				
London Office	Director-General, London/AOSGA*	AOSGA1	18,400	Flexible ranking arrangement has not been invoked since 1 July 1997.				

* According to the approval of the Finance Committee in 1996, the flexible ranking system would only be applied to the three ETO head posts ranked at Administrative Officer Staff Grade A under specified circumstances and no more than one of the three posts at any point in time.

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
New York Office	Director, Hong Kong Economic and Trade Affairs, New York/ AOSGC	AOSGB	14,380	Sarah WU	Deputy Director (Environmental Hygiene), Food and Environmental Hygiene Department/ AOSGB	AOSGB	20 June 2002 to present	Nil
				David TSUI	Deputy Commissioner, London Office /AOSGB	AOSGB	2 August 1995 to 4 September 1998	Nil
San Francisco Office	Director, Hong Kong Economic and Trade Affairs, San Francisco/ AOSGC	AOSGB	14,380	Annie TANG	Deputy Secretary (Special Duties), Commerce and Industry Bureau/ AOSGB	AOSGB	1 August 2000 to present	Nil
				Michael LEE	Deputy Director, Agriculture and Fisheries Department/ AOSGB	AOSGB	3 March 1997 to 30 June 2000	Nil

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
Sydney Office	Director, Hong Kong Economic and Trade Affairs, Sidney/AOSGC	AOSGB	14,380	Jenny WALLIS	Deputy Secretary (3) (Culture and Sports), Home Affairs Bureau/ AOSGB	AOSGB	19 October 1998 to present	Nil
				Philip CHOK	Deputy Director (2), Home Affairs Department/ AOSGB	AOSGB	2 October 1995 to 18 October 1998	Nil
Singapore Office	Director, Hong Kong Economic and Trade Affairs, Singapore/ AOSGC	AOSGB	14,380	Clement CHEUNG	Head, Corporate Strategy Unit, Housing Department/ AOSGC	AOSGC; Promoted to AOSGB on 1 January 2001	6 August 1998 to 7 October 2001 (1 January 2001 to 7 October 2001)	Nil (Actual difference in monthly salary before and after the promotion was \$4,050)
				Thomas TSO	Deputy Secretary (3), Civil Service Branch/AOSGB	AOSGB	18 August 1995 to 5 August 1998	Nil

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
Tokyo Office	Principal Hong Kong Economic and Trade Representative, Tokyo/AOSGA*	AOSGA1	18,400	Flexible ranking arrangement has not been invoked since 1 July 1997.				
	Hong Kong Economic and Trade Representative, Tokyo/AOSGC	AOSGB	14,380	Flexible ranking arrangement has not been invoked since 1 July 1997.				
Toronto Office	Director, Hong Kong Economic and Trade Affairs, Toronto/AOSGC	AOSGB	14,380	Rosanna URE	Assistant Director, ICAC/AOSGC	Acting AOSGB	18 September 2000 to 12 September 2003	\$4,050
Washington Office	Commissioner for Economic and Trade Affairs, United States/AOSGA*	AOSGA1	18,400	Flexible ranking arrangement has not been invoked since 1 July 1997.				

* According to the approval of the Finance Committee in 1996, the flexible ranking system would only be applied to the three ETO head posts ranked at Administrative Officer Staff Grade A under specified circumstances and no more than one of the three posts at any point in time.

<i>Name of ETO</i>	<i>Post Title/ Post Rank</i>	<i>Supernumerary post created under flexible ranking system</i>	<i>Difference in starting monthly pay between the post rank of the permanent post and that of the supernumerary post created under flexible ranking system (As at 1 January 2004) (HK\$)</i>	<i>Name of Officer</i>	<i>Immediately Previous Post/ Substantive Rank</i>	<i>Rank of officer when assuming the ETO post</i>	<i>Terms of office (the duration of application of flexible ranking system (if different from the terms of office))</i>	<i>Difference in monthly salary of the concerned officer before and after assuming the ETO post (HK\$)</i>
	Director-General, Hong Kong Economic and Trade Affairs, Washington/ AOSGB1	AOSGA	17,500	Christopher JACKSON	Deputy Secretary (1), Civil Service Branch/AOSGB1	AOSGB1; Promoted to AOSGA on 1 January 1997	18 April 1996 to 7 January 2001 (1 January 1997 to 7 January 2001)	Nil (Actual difference in monthly salary before and after the promotion was \$16,350)

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, after going through the Annex, I found that the flexible ranking system has become the synonym for misuse of public funds and lawful salary increases. The Government said in part (b) of the main reply that of the 18 positions in ETOs to which the flexible ranking system applied, higher rank supernumerary posts have been created only in respect of six of these posts currently. This demonstrates that there is no misuse of public funds. However, this is only half of the story. The other half of the story is, I found on counting that from 1 July 1997 onwards, among the officers in these 18 posts and those on acting appointment, a total of 18 officials have benefited from posting to these supernumerary posts and higher salaries. It can be seen that there is no supervision whatsoever over this system and public funds have been misused. I also found on doing some rough calculations that an additional \$10 million had been spent because of this system. Can the Government tell this Council if it thinks this system has been abused? Is it definitely opposed to returning this power on flexible ranking to the Legislative Council? If it is, what are the reasons? If Members request that this power on vetting and approval be returned to the Legislative Council, what system has to be established?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): *Madam President, I have already stated several points very clearly in my main reply. Firstly, this flexible ranking system was agreed and approved by the Finance Committee; secondly, it is beyond doubt that this flexible ranking system definitely and veritably enables us to create supernumerary posts that are higher in rank than the permanent posts concerned, and the aim was also clearly stated in our paper, that is, to facilitate us in posting the most suitable candidate to serve as the representative of the SAR Government, and in many cases, as the external representative of Hong Kong. When it is necessary to make use of the flexible ranking system, of course, additional expenses will be involved. This is always an important element in the system, therefore, there is no question of misusing public funds.*

Part (b) of the main reply also stated clearly that every time we make a posting arrangement, we would consider prudently which officer is the most suitable one in taking up the post concerned. If important directorate posts are involved, we will further consult the top echelon, including the Chief Executive and the two Secretaries of Departments. Therefore, I have always insisted

clearly that since this system enables us to make flexible arrangements when necessary and in doing so, additional public funds will naturally be incurred; since this system has always existed in our system, was presented to the Financial Committee and its approval was obtained, and since this system has been functioning well for many years, for one thing I totally disagree that there is any so-called misuse of public funds, and for another, I do not think any review is called for.

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, has your supplementary not been answered?

MR CHEUNG MAN-KWONG (in Cantonese): *It has been.*

PRESIDENT (in Cantonese): In that case, you have to wait for another turn.

MR CHEUNG MAN-KWONG (in Cantonese): *Yes, I am waiting for another turn.*

MR HOWARD YOUNG (in Cantonese): *Madam President, according to the Annex to the main reply, for at least seven places, such as the WTO, Guangdong Province and London, this so-called flexible ranking system has not been adopted since 1 July 1997. In view of this, can it be affirmed that such a need no longer exists in these places and such an arrangement at these several places can simply be done away with? In this way, a lot of controversies can be avoided. Is it possible to do so?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, Mr Howard YOUNG's supplementary in fact precisely demonstrates again the great care we took in considering the use of the flexible ranking system. If we think that we can find a suitable officer of the same rank to take up a certain post, then this flexible ranking system would not be activated. Therefore, I have made it very clear in the main reply that, although in theory we could have

activated this mechanism for 18 posts, in practice we have done so only on six occasions so far. This demonstrates that before activating this mechanism each time, we always ponder very carefully before making an arrangement which we believe would serve the best interest of the SAR Government and even that of Hong Kong.

PRESIDENT (in Cantonese): Mr CHAN Kwok-keung. Wait a minute. Mr Howard YOUNG, has your supplementary not been answered?

MR HOWARD YOUNG (in Cantonese): *Yes. I am waiting for a second turn.*

PRESIDENT (in Cantonese): Fine. You are waiting for a second turn. Please simply press the button and it is not necessary to raise your hand. Mr CHAN Kwok-keung.

MR CHAN KWOK-KEUNG (in Cantonese): *The Government said that it was because officers posted outside Hong Kong were concerned that their promotion prospects might be affected that the flexible ranking system was implemented. After these officers came back to Hong Kong, as far as their promotion prospects are concerned, how many of them were promoted and concerning their chances of promotion, were their promotion prospects the same as those who had not been posted outside Hong Kong?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, concerning the promotion system for civil servants, there is an established mechanism and we will take into consideration their performance in previous postings when making a decision. Therefore, it can be said that their performance in posts outside Hong Kong is a factor that will be considered. However, their advantage will neither be greater nor less when compared to other people as a result of having worked outside Hong Kong. We simply compare their performance with that of other colleagues, make recommendations to the promotion board and then let the Government make the decision.

MR CHAN KWOK-KEUNG (in Cantonese): *The Secretary has not given me a reply as to how many officers who had returned to Hong Kong were promoted, that is, in fact.....*

PRESIDENT (in Cantonese): The Secretary has answered your supplementary, saying that in accordance with the usual practice.....

MR CHAN KWOK-KEUNG (in Cantonese): *No, I asked him how many people had been given a promotion.....*

PRESIDENT (in Cantonese): Is it the case that you want to know how many people were promoted after returning to Hong Kong?

MR CHAN KWOK-KEUNG (in Cantonese): *Yes.*

PRESIDENT (in Cantonese): Since when?

MR CHAN KWOK-KEUNG (in Cantonese): *Since this system was implemented.*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, this system was introduced in 1991 and in the course of more than a decade, the number of people involved was quite considerable. Of course, we can go back and check one by one if these people were promoted and I believe this is the case for most of them, and some of them have even been promoted for more than one rank. I remember that after I had come back from Geneva, I was also promoted. However, I hope Mr CHAN can perhaps consider if he wants me to prepare the information on this. We can provide the information if he really needs it, however, it is not really meaningful to provide this kind of information.

MR CHAN KWOK-KEUNG (in Cantonese): *But this can serve as some kind of encouragement to civil servants.*

PRESIDENT (in Cantonese): Secretary, are you going to provide the relevant information?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, in that case, perhaps I will undertake to provide the information in this regard. Fine? (Appendix I)

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary said that this flexible ranking system was established in 1991 and has been proven, and that the aim is to attract government officers to take up the supernumerary posts outside Hong Kong as it is necessary to find people who are mature and experienced, with well-honed skills in negotiation, lobbying and public relations if they are to be competent for the posts. Does the Secretary mean that in the past, this kind of people was hard to come by? However, as far as I understand it, the officers posted to these posts outside Hong Kong were mainly Administrative Officers. However, in fact, there are also many competent professionals and technocrats in the Government. Can the Secretary inform us how many of the people posted outside Hong Kong in the course of more than a decade were Administrative Officers and how many were technocrats?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, firstly, these posts outside Hong Kong are all posts in the Administrative Officer grade, so as a matter of course we will first consider appointing Administrative Officers to these posts. However, if we sometimes happen to find suitable candidates who are not Administrative Officers, we will also consider them. In fact, we have also appointed colleagues from the professional grades to take up such posts but the number is not great. Maybe I will also provide information on this matter to Members later. (Appendix II)

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, the Government is misusing public funds and of course it will not admit readily. However, it is certain that the additional expense of \$10 million is public funds. In fact, officials taking up posts in ETOs outside Hong Kong are already paid other allowances so that they would not suffer any losses, for example, they are granted acting allowances or.....*

PRESIDENT (in Cantonese): Do you want to ask a supplementary or provide additional information? This is a time to raise questions.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, I will ask the question after providing the information.*

The Government has provided other allowances so that they will not suffer any loss. This flexible ranking system has been implemented for 13 years since its introduction in June 1991. Will the Government consider conducting a review and making changes, and will the Government tell this Council if the authorities will consider abolishing this flexible ranking system? Should an official be really unwilling to take up a post, will another person be posted instead?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I have to reiterate clearly once again that this flexible ranking system enables us to appoint more senior colleagues to assume posts outside Hong Kong and of course the salaries paid to more senior colleagues are higher. When we submitted papers to the Finance Committee for approval, the financial implications were also included. Therefore, in other words, I still cannot understand, still less accept the allusion to "misuse of public funds". This is in fact one of the items of expenditure in our system. This is the first point.

The second point is, the main reply has stated clearly that this system has been implemented for more than 10 years. It enables us to find the most

suitable candidates and we will also consider such matters carefully. When there are colleagues in the same rank capable of assuming these posts outside Hong Kong, we will appoint them. However, this system enables us to extend the scope of suitable candidates to ensure the smooth operation of ETOs outside Hong Kong as well as ensuring that civil servants representing the SAR Government and even Hong Kong can perform the tasks we require of them. On these grounds, I do not think that there is any need to conduct any review of this system.

PRESIDENT (in Cantonese): Last oral question.

Agreements on Transfer of Sentenced Persons

6. **MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, while the Government of the Hong Kong Special Administrative Region (SAR) has entered into agreements on the transfer of sentenced persons with six countries so far, it has yet to reach an agreement with the mainland authorities on the matter, on which I already raised a question in this Council three years ago. In this connection, will the Government inform this Council of:*

- (a) *the respective amounts of time spent on discussions with the six countries in reaching such agreements;*
- (b) *the number of meetings held between the Security Bureau and the mainland authorities so far, and the details of each meeting, including the meeting date, officials attended, issues discussed and achievements made; and*
- (c) *the specific reasons for still not being able to reach an agreement with the mainland authorities on the matter?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) The SAR has signed agreements on transfer of sentenced persons with seven countries, namely the United Kingdom, the United States, Sri Lanka, Thailand, the Philippines, Italy and Portugal. The

agreements signed with six of the countries are already in force. The time spent on the respective agreements from commencement of discussions to their coming into force is set out below:

<i>United Kingdom</i>	<i>United States</i>	<i>Sri Lanka</i>	<i>Thailand</i>	<i>Philippines</i>	<i>Italy</i>
25 months	38 months	18 months	20 months	75 months	58 months

- (b) In March 2000, the SAR Government and mainland experts started discussions on the arrangements for transfer of sentenced persons by way of meetings and exchange of documents. The departments involved in the discussions include the Security Bureau, Department of Justice, Correctional Services Department and Immigration Department while the mainland participants include the Hong Kong and Macao Affairs Office, Ministry of Justice and Ministry of Public Security. Discussions have centred around the main principles and provisions enshrined in the Transfer of Sentenced Persons Ordinance and the agreements on transfer of sentenced persons which we have signed with other jurisdictions, which include, for example, the conditions for transfer, procedures for transfer, retention of jurisdiction and continued enforcement of sentence.
- (c) Through meetings and exchange of documents, both sides have gained more in-depth understanding of the legal system and concepts of the other side. However, because of the differences in the legal and judicial systems of the two places and the complexity of the issues involved, the discussions are still underway and have not been completed. We will continue to pursue this subject with a view to reaching an early agreement with the relevant mainland experts on an appropriate arrangement for the transfer of sentenced persons between Hong Kong and the Mainland.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the issue of mainland prisoners serving prison terms in Hong Kong has attracted great attention, and the main reason in fact is that at present, among the prisoners in Hong Kong, one third of them are mainlanders serving prison terms in Hong Kong after breaking the law. It is due to this reason that Hong Kong prisons*

have become overcrowded. If this problem can be resolved, the expenditure of the Hong Kong Government can be reduced. Therefore, it will be of great help to Hong Kong if the place for prisoners to serve their sentences can be exchanged. However, the problem lies with the fact that the Government has been very slow in its progress on the handling of this matter. As regards part (b) of my question which includes.....

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, what in fact is your supplementary question?

MR LEUNG YIU-CHUNG (in Cantonese): *What I would like to ask is in part (b) of my question. I was enquiring about things including the number of meetings held, details of each meeting, meeting dates, officials attended, issues discussed and achievements made, but he has replied none. Therefore, what I would like to follow up is apart from getting him to give an answer to the matters raised in part (b) of my question, could he tell us further what the biggest difficulty at the moment is? According to the present rate of progress, when does the Government expect the problem can be resolved?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as regards the holding of meetings, as far as I can remember, we have had three formal meetings with the Mainland, but we do not exchange opinions with the mainland experts only during meetings. Apart from holding meetings, we also write to each other frequently to exchange opinions on matters of mutual concern. However, since our discussion with the Mainland on the matter is still underway, it is not convenient to make public the details of the discussion. As soon as the discussion is over, we will definitely announce the contents of our agreement and consult Members.

The main reason for taking such a long time is that the judicial system and social environment of Hong Kong are different from the circumstances on the Mainland, which is known to all. It is because of these differences that we have to be more careful in our discussions. We hope that a good agreement can be reached as this would be better than rushing the matter through. If everyone considers that the agreement is not good when we come back and recommend it to Members and the Hong Kong public, that would be most undesirable.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, what I asked the Secretary just now was in these three years, what difficulties there had been to have led to such slow progress. Earlier, the Secretary only replied that in the last some three years to four years, only three meetings had been held. I would like the Secretary to state more clearly where the difficulties lie and the reason for holding only three meetings. Although he said they had written to each other, does the problem rest with the fact that we do not have sufficient manpower or some other reasons, resulting in having held only three meetings with the Mainland?*

SECRETARY FOR SECURITY (in Cantonese): This has totally nothing to do with insufficient manpower. As I said earlier, it is mainly due to the differences between the judicial system and social environment of both sides. We have put forward our demands and the Mainland has also done so. We have to come to a consensus in this regard. Therefore, although we have not held meetings, we are still writing to each other to exchange opinions on this matter.

Madam President, I may have to reiterate that two meetings instead of three have been held.

PRESIDENT (in Cantonese): Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Investment or Operation of Educational Programmes Outside Hong Kong by University Grants Committee-funded Institutions

7. **MR SZETO WAH** (in Chinese): *Madam President, regarding the investment or operation of educational programmes outside Hong Kong by the University Grants Committee (UGC)-funded institutions, will the Government inform this Council:*

- (a) *of the number of UGC-funded institutions operating educational programmes or providing courses outside Hong Kong in each year since 2001 and in each of the next three years; their sources of funding and amounts of investment in this respect; the number of courses involved, the admission capacities and tuition fees of such*

courses, the course venues and the levels of academic qualifications awarded, as well as the respective numbers of local and non-local students admitted to such courses;

- (b) whether Hong Kong students enrolled in the courses run by the UGC-funded institutions outside Hong Kong are eligible for government subsidy; if so, of the number of students applying for subsidy in each of the past three years, as well as the educational institutions involved, the titles and tuition fees of the courses concerned, the levels of academic qualifications awarded, and the total amounts of subsidy granted;*
- (c) whether a UGC-funded institution is allowed to practise cross-subsidy, in terms of manpower and teaching, between its education resources from public and private sources and between its education resources for local and non-local programmes; if so, of the reasons for that; if not, how such cross-subsidy can be prevented; and*
- (d) how it monitors the educational programme investments or development plans of UGC-funded institutions, so as to ensure that such investments and plans will not cause a financial burden on them in the long term; of the objective criteria for ensuring that the UGC-funded institutions should only operate educational programmes outside Hong Kong on a stable footing, as well as how it assures the quality of the academic qualifications awarded by the UGC-funded institutions in the Mainland?*

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

- (a) The UGC-funded institutions may offer self-financing courses in Hong Kong or elsewhere in accordance with their respective governing legislation. According to the institutions, several of them are now offering self-financing educational courses in the Mainland. Since these activities are not funded by the UGC, and no public funds are involved in the offering of such programmes,

institutions have not reported the details of these programmes to the UGC and/or the Administration.

- (b) Local students pursuing full-time and accredited self-financing post-secondary education programmes are eligible for financial assistance under the "Financial Assistance Scheme for Post-secondary Students" (FASP) and "Non-means Tested Loan Scheme for Post-secondary Students" (NLSPS), even if part of the programme is offered outside Hong Kong, provided that such modules do not exceed 50% of the programme. In the past three years, only one student met the above criteria and was provided with financial assistance in the 2002-03 academic year. Details are as follows:

Institution	Hong Kong Community College, The Hong Kong Polytechnic University
Programme	Associate in Business
Location	Zhuhai
Tuition Fee	HK\$31,000
Award	Associate Degree
Financial Assistance	Grant under FASP: HK\$31,000 Loan under NLSPS: HK\$33,690

- (c) The UGC and its funded institutions are fully conscious of the need to ensure the proper use of public funds for the purposes they were provided for. According to the UGC "Notes on Procedures" which set out, among other things, the funding arrangements, in order to avoid dilution of public resources and cross subsidy to non-UGC-funded activities, institutions should levy overhead charges on non-UGC-funded activities. In addition, institutions are required to submit a report compiled by their external auditors every financial year and confirm that public funds allocated to them are used for the purposes they were provided for.
- (d) The Administration and the UGC recognized the need to preserve academic freedom and institutional autonomy subject to this being commensurate with the need for the institutions to be publicly

accountable for its financial position. To this end, the UGC has put in place a rigorous process to examine the Academic Development Proposals submitted by the UGC-funded institutions in the context of their funding proposals. This is to ensure that the institutions' proposals are in line with their respective roles and missions and that they respond positively to community needs. As regards the educational programmes offered by the UGC-funded institutions in the Mainland, since they are all self-financed, they should not become a financial burden for the publicly-funded part of the concerned institutions.

The UGC-funded institutions have all acquired self-accrediting status and are mindful of the importance of maintaining their academic reputation. According to the institutions, the quality assurance processes for their educational programmes offered outside Hong Kong are similar to those applicable to similar courses offered in Hong Kong.

Projects Contracted out by Government

8. **MR ANDREW CHENG** (in Chinese): *Madam President, regarding the projects contracted out by the Government, will the Government inform this Council:*

- (a) *of the number of projects contracted out by the Housing Department (HD), the Architectural Services Department (ArchSD), the Highways Department (HyD) and the Civil Engineering Department (CED) in the past three years and their total value; the respective numbers of projects contracted out to contractors and consultant companies; and the number of labour disputes in connection with the projects contracted out by the Government and the number of employees involved;*
- (b) *whether the above departments, in contracting out projects, have kept information about the subcontractors, sub-subcontractors and all lower tier subcontractors; if so, of the respective numbers of*

subcontractors, sub-subcontractors and all lower tier subcontractors broken down by project; if not, whether it will consider requiring the contractors or consultant companies to provide such information; and

- (c) *whether it will consider following the practices of private companies by keeping the name lists of all workers who are engaged in the projects contracted out by the Government and their employment contracts, and requiring the main contractors to assume the responsibility as an employer in any labour disputes involving their subcontractors at all tiers, to employ the workers under formal employment contracts, and to pay wages directly to the workers; if so, please provide the timetable for the adoption of these practices; if not, the reasons for that?*

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

- (a) From 2001 to 2003, the number of works contracts awarded by the HD, the ArchSD, the HyD and the CED and the total value of the contracts are as follows:

<i>Department</i>	<i>No. of Contracts</i>	<i>Total Value (\$ billion)</i>
HD	329	17.5
ArchSD	308	33.2
HyD	79	19.2
CED	130	10.4

In general, the Government does not directly subcontract its projects to contractors or consultant companies.

The Labour Department (LD) does not keep a separate record of the number of labour disputes involving government projects. This is because in the conciliation of labour disputes and claims, the LD will not ascertain whether a case involves government projects. In fact, whether or not a case involves government projects has no

bearing on the statutory rights and liabilities of the parties concerned under the Employment Ordinance.

However, with effect from September 2002, all works departments under the Environment, Transport and Works Bureau are required to submit to the Bureau monthly reports on cases of wages disputes in connection with public works contracts. From January to December 2003, the three works departments mentioned above (that is, the ArchSD, HyD and CED) recorded a total of 33 cases of wages disputes involving public works contracts. All of the cases have been referred to the LD for follow-up action and assistance. The works departments have also rendered assistance to the workers concerned as far as practicable.

- (b) There was no established government policy in the past requiring works departments to keep information about the subcontractors of their projects. However, the Environment, Transport and Works Bureau has since mid-2003 required all main contractors of new public works contracts to submit information about their subcontractors to the relevant works departments. Such information collected by the above departments in 2003 are as follows:

<i>Department</i>	<i>No. of Main Contractors</i>	<i>No. of Subcontractors</i>	<i>No. of Sub-subcontractors</i>	<i>No. of Subcontractors at the Fourth Tier</i>
ArchSD	45	261	24	0
HyD	17	189	0	0
CED	11	20	11	2

- (c) Under the proposed Construction Workers Registration Scheme, a Register will be set up to record the basic information about all registered construction workers. Upon the implementation of the Scheme, a card-reader will be used to verify the registration status of every worker entering and leaving a construction site. By doing so, the Government and contractors should be able to keep track of every construction worker working at a construction site.

Regarding the proposal requiring the main contractor to pay wages directly to the subcontractor's employees, the Employment Ordinance already has provisions requiring the main contractor of a building and construction project to pay, on behalf of the subcontractor or nominated subcontractor, the arrears of wages payable to the subcontractor's employees, not exceeding the wages for the first two months of the period in question. Such wages are paid by the main contractor on behalf of its immediate subcontractor in the form of disbursement and the amount involved is considered a debt owed by the subcontractor to the main contractor. The main contractor may seek to recover the debt from the subcontractor through civil proceedings. The proposal requiring the main contractor to assume responsibility for all labour and wage disputes is contrary to the original intention of subcontracting and may have far-reaching implications. In fact, according to the General Conditions of Contracts for existing public works, if a worker employed by the main contractor files a claim against the main contractor in respect of wages payable to him and can prove to the satisfaction of the Commissioner for Labour that the claim is reasonable, the Government may deduct the same from the contract sum payable to the main contractor so as to settle the claim. As more information will be available after the Construction Workers Registration Scheme is introduced, the Administration may consider strengthening the relevant measure in this respect.

As for employment contracts, the Government will do its best to encourage main contractors to require their subcontractors to sign formal employment contracts with their employees directly in order to avoid labour disputes as far as possible.

Regulation of Plastic Lunch Box Containers

9. **MISS CHAN YUEN-HAN** (in Chinese): *Madam President, regarding regulation of plastic lunch box containers, will the Government inform this Council whether:*

- (a) *inspections have been carried out on lunch box containers currently available in the market for general use and those specially for students, to find out if they contain toxic chemicals and carcinogenic*

substances as well as their heat-stable and warmth-keeping levels; if so, of the dates and frequency of such inspections; and

- (b) *there is currently legislation to regulate the ingredients of plastic lunch box containers; if so, of the details; if not, whether the authorities have plans to enact legislation for such regulation; if they have not, the reasons for that, and how it ensures the quality of plastic lunch box containers?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): Madam President, according to the Health, Welfare and Food Bureau, the Public Health and Municipal Services Ordinance (the Ordinance) (Cap. 132) stipulates, *inter alia*, that all food for sale in Hong Kong must be fit for human consumption. The Food and Environmental Hygiene Department (FEHD) regularly collects food samples for testing. If the FEHD discovers any food items are unfit for human consumption, whether or not they are caused by deficiencies in the containers, it will take appropriate enforcement action, such as removing the food items and prosecuting the vendors. There are also licensing conditions for food factories with endorsement to supply meal boxes to ensure that food containers are made of material that will not release toxic chemicals into food as a result of changes in temperature or acidity in the food.

The Ordinance also empowers the Director of Food and Environmental Hygiene to make regulations for the control of materials used for making apparatus or utensils in the preparation or preservation of food for human consumption. So far, no regulation has been made for the purpose. The FEHD will conduct a study into this issue.

Health Care Personnel of Hospital Authority

10. **DR LAW CHI-KWONG** (in Chinese): *Madam President, regarding the health care personnel of the Hospital Authority (HA), will the Government inform this Council of:*

- (a) *the number of medical practitioners and nursing staff who left the service in each of the past three years and their reasons for leaving, broken down by rank;*

- (b) *the number of medical practitioners employed by the HA for specialist training in the past three years; the year in which the six-year training duration for specialists was adopted; the organization responsible for specialist training before such practice was implemented, as well as the roles of the Government and the HA in this respect; and whether a review on the policy of specialist training will be conducted; and*
- (c) *the total number of trainees employed by the HA for the development of the family medicine sector in the past three years; and apart from the training of family doctors, the measures in place to establish a system of family medicine to enable private practice by trainees upon the completion of their training?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese):
Madam President,

- (a) The statistics for the turnover of doctors and nurses in the HA in each of the past three years are shown in the table below:

<i>Post</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
Doctors			
Consultant	2	10	25
Senior Medical Officer/ Associate Consultant	23	23	50
Medical Officer/Resident	80	91	177
Total	105	124	252
Nurses			
Nursing Officers and above	80	63	236
Registered Nurse	159	120	407
Enrolled Nurse	77	67	219
Total	316	250	862

The staff's reasons for departure are wide-ranging, which include resignation, completion of contract, normal and voluntary early retirement, and dismissal.

- (b) The HA appointed 284, 282 and 263 doctors for specialist training in various clinical specialties including Family Medicine in 2002-03, 2003-04 and 2004-05 respectively.

The requirements for specialist training in various clinical specialties, including the six-year training period, was set by the Hong Kong Academy of Medicine (HKAM) in 1993, one year after its establishment under the Hong Kong Academy of Medicine Ordinance (Cap. 419) in 1992.

The Government has all along been responsible for the overall manpower planning of medical and health care professionals in Hong Kong and interacts with the universities, the HA (after its establishment in 1991) and the private sector in this regard. Before the establishment of the HKAM, local doctors who wished to become a specialist had to acquire their professional qualifications from overseas professional bodies. The former Medical and Health Department recruited, in accordance with the needs identified in the manpower planning process, the appropriate number of doctors for training in various medical specialties in public hospitals. Specialist trainees who met the relevant training requirements were sponsored by the Department to sit in the professional examinations organized by overseas professional bodies. After its establishment in 1991, the HA recruits doctors for training in various medical specialties. In doing so, the HA works closely with the Government, the HKAM and its Colleges in determining the number of new Residents to be admitted for specialist training, taking into account the projected specialist requirements of the HA, the projected supply of specialists in the light of the number of trainees completing training, the turnover rates, the HA's plan on service development, the training capacities in HA hospitals and the applicants' suitability for specialist training. In accordance with government policy, the HA has also undertaken to provide training for doctors in family medicine for the community.

Since the establishment of the HKAM, the system of specialist training in Hong Kong has been working effectively. There is no plan at present to review the policy of specialist training.

- (c) The HA appointed 92, 103 and 81 doctors for training in family medicine in 2002-03, 2003-04 and 2004-05 respectively.

Apart from the training of family doctors, the HA has adopted the following measures to promote the practice of family medicine in Hong Kong:

- (i) organizing regular career planning sessions for family medicine trainees (for example, inviting private practitioners, doctors' associations and other medical institutions to share with them the employment opportunities available in the community);
- (ii) listing of private practice openings on the HA website;
- (iii) introducing a community practice module taught by experienced private family medicine specialists in the four-year family medicine training programme;
- (iv) employing on contract basis some of the family doctors who have completed the basic training and passed the intermediate examinations to work in the HA's general out-patient clinics to enrich their clinical experience and prepare them for private practice upon completion of training;
- (v) facilitating collaborations between family doctors and elderly homes through the geriatric outreach teams and the Visiting Medical Officer Scheme; and
- (vi) co-operating with relevant Colleges of the HKAM to provide training positions for community paediatricians, physicians and gynaecologists.

Investor Compensation Fund

11. **MR HENRY WU** (in Chinese): *Madam President, the Investor Compensation Fund (ICF) has been established under the Securities and Futures Ordinance on 1 April 2003 to replace the Unified Exchange Compensation Fund*

(UECF) and the Commodity Exchange Compensation Fund (CECF) as a single compensation fund. It is reported that as the amount of the Fund has already reached \$962 million, which is close to its target of \$1 billion, the Securities and Futures Commission (SFC) has activated the review mechanism of ICF and is now considering options to deal with the investor compensation levy. In this connection, will the Government inform this Council, whether it knows:

- (a) the updated positions regarding the income, expenditure and balance of the above three compensation funds;*
- (b) the details of the review mechanism, including the conditions under which the mechanism will be activated and how it operates; and*
- (c) the details of the options being considered by the SFC and when it will decide on the matter?*

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

- (a) According to the information provided by the SFC, the latest income, expenditure and balance of the compensation funds as of 31 May 2004 were as follows:

	<i>Net asset value as of 31 May 2004</i>	<i>Income in May 2004</i>	<i>Expenditure in May 2004</i>
UECF	\$280.6 million	\$11.4 million	\$17,000
CECF	\$0.3 million	\$20	\$3,700
ICF	\$1,041.0 million ^{Note 1}	\$12.9 million	\$0.3 million

- (b) As undertaken during the passage of the Securities and Futures (Investor Compensation — Levy) Rules through the Legislative Council in December 2002^{Note 2}, the Administration has invited the SFC to conduct a review on the ICF in the light of its operational experience and prevailing circumstances.

^{Note 1} The balance of the ICF as of 31 March 2004 was \$962 million. The fund balance increased to \$1,041.0 million by 31 May 2004 because of the levy income of \$26.9 million and transfer of \$52 million from the UECF during April and May 2004. The remaining balance of UECF and CECF will eventually be transferred to ICF after meeting claims against them and settling other liabilities.

^{Note 2} Legislative Council Brief on the Securities and Futures Ordinance (Cap. 571) of 13 December 2002 (Ref: SU B38/26/3(2002)).

The SFC has already started the review process, and is considering various aspects, including a levy adjustment mechanism relating to the imposition and removal of the existing transaction levy of 0.002% once the assets of the ICF reach a certain level. The proposed design would take into account the desirability of self-funding for the ICF so as to enable the expected annual income generated by the ICF to be sufficient to cover its expected annual expenditure.

- (c) The Administration will discuss with the SFC on the relevant proposals. We aim to brief the Financial Affairs Panel of the Legislative Council by end 2004 before conducting a public consultation exercise on the proposals.

Expenses Incurred by Senior Officers of Government and Public Bodies for Attending Overseas Meetings and Activities

12. **MR HENRY WU** (in Chinese): *Madam President, regarding Directorate civil servants and the persons in charge of the Hong Kong Monetary Authority, the Securities and Futures Commission and the Mandatory Provident Fund Schemes Authority who participated in seven or more meetings and activities held outside Hong Kong by international organizations during the last financial year, will the Government inform this Council of the participation details of each of such officials in each event, including the name of the meeting/activity and the place at which it was held, the purpose of participation, duration of absence from Hong Kong, the number and average annual remuneration of the accompanying officers, as well as provide a breakdown of various expenses (including expenses on transport, accommodation, dining, entertainment and logistical support)?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Madam President, we set out in the Annex details of visits made by Directorate civil servants who participated in seven or more meetings or activities held outside Hong Kong by international organizations in 2003-04. None of the persons in charge of the Hong Kong Monetary Authority, the Securities and Futures Commission and the Mandatory Provident Fund Schemes Authority participated in seven or more such meetings or activities over the same period.

Participation of Government Directorate Civil Servants in Meetings/Activities
organized by International Organizations from 1 April 2003 to 31 March 2004

	Name of Meeting/Activity	Place of Meeting/ Activity	Purpose of Participation	Duration of Absence from Hong Kong (days)	Accompanying Officer ^(Note 1)		Breakdown of Expenditure for the Visits ^(Note 2) (S)					
					No.	Average Annual Remune- ration (S)	Duty Passage	Accom- modation	Dining, Travelling, and Other Miscellaneous Items	Official Entertain- ment ^(Note 3)	Logistical Support (Note 4)	Total
Administrative Assistant to Secretary for Commerce, Industry and Technology, Commerce, Industry and Technology Bureau												
(1)	APEC Meeting of Ministers Responsible for Trade	Thailand	To attend meeting	4	-	-	6,850.00	3,150.00	1,300.00	-	-	11,300.00
(2)	WTO Informal Ministerial Meeting	Switzerland Egypt	To attend meeting	5	-	-	41,900.00	4,800.00	2,350.00	-	-	49,050.00
(3)	WTO Informal Ministerial Meeting	Canada	To attend meeting	4	-	-	50,650.00	3,700.00	1,400.00	-	-	55,750.00
(4)	5th WTO Ministerial Meeting	Mexico	To attend meeting	10	-	-	50,950.00	9,150.00	3,500.00	-	-	63,600.00
(5)	ITU TELECOM World 2003	Switzerland	To make presentation and perform lobbying activities in support of Hong Kong's bid for hosting the ITU TELECOM World 2006	5	-	-	41,254.00	6,855.29	2,367.50	-	-	50,476.79
(6)	11th APEC Ministerial Meeting	Thailand	To attend meeting	5	-	-	4,700.00	6,500.00	1,300.00	-	-	12,500.00
(7)	Annual Meeting of World Economic Forum	Switzerland	To attend meeting	4	-	-	41,100.00	2,800.00	1,900.00	-	-	45,800.00

	Name of Meeting/Activity	Place of Meeting/ Activity	Purpose of Participation	Duration of Absence from Hong Kong (days)	Accompanying Officer ^(Note 1)		Breakdown of Expenditure for the Visits ^(Note 2) (S)					
					No.	Average Annual Remune-ration (S)	Duty Passage	Accom-modation	Dining, Travelling, and Other Miscellaneous Items	Official Entertain-ment ^(Note 3)	Logistical Support ^(Note 4)	Total
Commissioner for Narcotics, Security Bureau												
(1)	Plenary Meeting of Financial Action Task Force on Money Laundering	Germany	To attend meeting	5	2	1,089,192.00	68,677.00	14,164.74	16,020.60	-	282.36	99,144.70
(2)	The Economic War on Terrorism: Money Laundering and Terrorist Financing by George C. Marshall European Centre for Security Studies	Germany	To attend as guest speaker	4	1	1,677,143.00	37,717.37	2,847.80	3,797.06	-	-	44,362.23
(3)	Pre-meeting of Annual Meeting of Asia/Pacific Group on Money Laundering	Beijing, China	To attend meeting	4	-	-	2,762.00	4,350.00	2,439.69	-	-	9,551.69
(4)	Annual Meeting of Asia/Pacific Group on Money Laundering	Macao	To attend meeting	4	3	1,154,681.00	1,482.00	7,344.00	5,109.00	276.71	72.62	14,284.33
(5)	Plenary and Working Group Meeting of Financial Action Task Force on Money Laundering	Sweden	To attend meeting	6	-	-	25,209.00	8,941.65	4,593.19	-	270.26	39,014.10
(6)	Plenary Meeting of Financial Action Task Force on Money Laundering	France	To attend meeting	7	1	1,154,979.00	21,040.00	20,086.08	14,541.23	-	5.08	55,672.39
(7)	47th Session Meeting of United Nations Commission on Narcotic Drugs	Austria	To attend meeting	8	1	817,980.00	14,400.00	16,560.00	13,014.19	4,894.88	199.25	49,068.32

	Name of Meeting/Activity	Place of Meeting/ Activity	Purpose of Participation	Duration of Absence from Hong Kong (days)	Accompanying Officer ^(Note 1)		Breakdown of Expenditure for the Visits ^(Note 2) (<i>\$</i>)					
					No.	Average Annual Remune-ration (<i>\$</i>)	Duty Passage	Accom-modation	Dining, Travelling, and Other Miscellaneous Items	Official Entertain-ment ^(Note 3)	Logistical Support <i>(Note 4)</i>	Total
Deputy Director-General of Trade and Industry (Multilateral, Regional Cooperation and Europe), Trade and Industry Department												
(1)	APEC 2003 SOM II and APEC Meeting of Ministers Responsible for Trade led by Secretary for Commerce, Industry and Technology	Thailand	To attend meeting	13	2*	956,033.00	11,925.00	35,571.00	17,137.00	-	-	64,633.00
(2)	APEC 2003 SOM III and Relaunch Hong Kong Campaign after SARS	Thailand	To attend meeting and Relaunch Hong Kong Campaign after SARS	11	5	481,516.00	33,558.00	27,083.00	17,216.00	6,664.00	4,421.00	88,942.00
(3)	APEC 2003 AELM led by the Chief Executive	Thailand	To attend meeting	10	5*	600,845.00	18,752.00	67,470.00	50,751.00	-	-	136,973.00
(4)	APEC Informal Senior Officials Meeting	Chile	To attend meeting	10	-	-	43,382.00	6,174.00	2,815.00	-	-	52,371.00
(5)	APEC 2004 SOMI	Chile	To attend meeting	13	3	585,438.00	172,790.00	36,371.00	29,073.00	5,996.00	-	244,230.00
(6)	WTO Informal Ministerial Meeting led by Secretary for Commerce, Industry and Technology	Egypt	To attend meeting	6	-	-	49,089.00	3,617.00	2,346.00	-	-	55,052.00
(7)	WTO Senior Official Meeting	Switzerland	To attend meeting	4	-	-	40,196.00	2,788.00	1,785.00	-	-	44,769.00
(8)	Fifth WTO Ministerial Conference led by the Financial Secretary	Mexico	To attend conference	10	9*	937,178.00	489,375.00	135,047.00	187,552.00	-	-	811,974.00

* The accompanying officers provided support to the whole delegation which was led by Chief Executive/Financial Secretary/Secretary for Commerce, Industry and Technology.

	Name of Meeting/Activity	Place of Meeting/ Activity	Purpose of Participation	Duration of Absence from Hong Kong (days)	Accompanying Officer ^(Note 1)		Breakdown of Expenditure for the Visits ^(Note 2) (S)					
					No.	Average Annual Remune- ration (S)	Duty Passage	Accom- modation	Dining, Travelling, and Other Miscellaneous Items	Official Entertain- ment ^(Note 3)	Logistical Support ^(Note 4)	Total
Assistant Director-General of Trade and Industry (Regional Cooperation), Trade and Industry Department												
(1)	APEC 2003 SOM II and APEC Meeting of Ministers Responsible for Trade led by Secretary for Commerce, Industry and Technology	Thailand	To attend meeting	13	-	-	3,975.00	12,457.00	3,733.00	-	-	20,165.00
(2)	APEC 2003 SOM III and Relaunch Hong Kong Campaign after SARS	Thailand	To attend meeting and Relaunch Hong Kong Campaign after SARS	11	-	-	included in item (7)	7,259.00	4,385.00	-	-	11,644.00
(3)	APEC 2003 AELM led by the Chief Executive	Thailand	To attend meeting	10	-	-	4,384.00	14,462.00	3,214.00	585.00	-	22,645.00
(4)	APEC Informal Senior Officials Meeting	Chile	To attend meeting	10	-	-	43,382.00	6,321.00	10,284.00	539.00	-	60,526.00
(5)	APEC 2004 SOMI	Chile	To attend meeting	13	-	-	43,892.00	10,884.00	8,904.00	-	-	63,680.00
(6)	APEC Health Ministers' Meeting led by Permanent Secretary for Health, Welfare and Food	Thailand	To attend meeting	3	-	-	4,567.00	3,086.00	1,305.00	-	-	8,958.00
(7)	WTO Negotiating Group on Market Access	Switzerland	To attend meeting	3	1	538,470.00	85,575.00	10,212.00	5,968.00	1,416.00	-	103,171.00
(8)	WTO Advanced Programme for Senior Government Officials on the Doha Development Agenda Negotiations	Beijing, China	To attend meeting	6	-	-	-	-	2,075.00	-	-	2,075.00

	Name of Meeting/Activity	Place of Meeting/Activity	Purpose of Participation	Duration of Absence from Hong Kong (days)	Accompanying Officer ^(Note 1)		Breakdown of Expenditure for the Visits ^(Note 2) (S)					
					No.	Average Annual Remune-ration (S)	Duty Passage	Accom-modation	Dining, Travelling, and Other Miscellaneous Items	Official Entertain-men ^(Note 3)	Logistical Support (Note 4)	Total
Assistant Postmaster General (Postal), Post Office												
(1)	Kahala 2003 Business Proposal Workshop – Operations Workstream of Kahala Posts Group (KPG)	United States	To attend meeting	7	-	-	7,678.00	4,286.00	3,360.00	-	-	15,324.00
(2)	Kahala 2003 Business Proposal Workshop – Operations Workstream of KPG	Australia	To attend meeting	15	-	-	7,767.00	10,295.00	7,963.00	-	-	26,025.00
(3)	Board of Directors meeting of KPG	United States	To attend meeting	6	-	-	15,793.00	4,286.00	3,357.00	-	-	23,436.00
(4)	Board of Directors meeting of KPG	Chongqing and Wuhan, China	To attend meeting	6	-	-	3,287.00	3,427.00	2,969.00	-	-	9,683.00
(5)	Operations Workstream Workgroup meeting of KPG	Beijing, China	To attend meeting	5	-	-	2,744.00	2,566.00	3,388.00	-	-	8,698.00
(6)	Board of Directors meeting of KPG	Australia	To attend meeting	6	-	-	5,104.00	9,700.00	1,495.00	-	-	16,299.00
(7)	Kahala Hub Project Meeting of KPG	Japan	To attend meeting	4	-	-	3,421.00	4,350.00	3,366.00	-	-	11,137.00

	Name of Meeting/Activity	Place of Meeting/Activity	Purpose of Participation	Duration of Absence from Hong Kong (days)	Accompanying Officer ^(Note 1)		Breakdown of Expenditure for the Visits ^(Note 2) (\$)					
					No.	Average Annual Remune-ration (\$)	Duty Passage	Accom-modation	Dining, Travelling, and Other Miscellaneous Items	Official Entertainment ^(Note 3)	Logistical Support ^(Note 4)	Total
Director, External Affairs, Post Office												
(1)	Kahala 2003 Business Proposal Workshop – Central Functions Workstream of KPG	United States	To attend meeting	7	-	-	13,351.00	5,358.00	4,075.00	-	-	22,784.00
(2)	Kahala 2003 Business Proposal Workshop – Central Functions Workstream of KPG	Australia	To attend meeting	10	-	-	5,420.00	7,341.00	5,394.00	2,214.00	-	20,369.00
(3)	CEO Meeting 2003 of KPG	United States	To attend meeting	9	-	-	15,793.00	7,500.00	5,700.00	1,835.00	-	30,828.00
(4)	Express Mail Service (EMS) Cooperative Board meeting of Universal Postal Union (UPU)	United States	To attend meeting	7	-	-	16,216.00	5,357.00	4,271.00	-	-	25,844.00
(5)	Asia Pacific Post (APP) Co-operative Management Board meeting Asia-Pacific Postal Union (APPU) Regional Terminal Dues Workshop	Vietnam	To attend meetings	5	-	-	4,527.00	1,896.00	3,453.00	-	-	9,876.00
(6)	Council of Administration 2003 meetings of UPU	Switzerland	To attend meetings	21	-	-	25,850.00	13,024.00	18,654.00	-	-	57,528.00
	EMS Co-operative Board meeting of UPU											
	EMS Co-operative General Assembly of UPU											

	<i>Name of Meeting/Activity</i>	<i>Place of Meeting/Activity</i>	<i>Purpose of Participation</i>	<i>Duration of Absence from Hong Kong (days)</i>	<i>Accompanying Officer^(Note 1)</i>		<i>Breakdown of Expenditure for the Visits^(Note 2)</i> <i>(\$)</i>					
					<i>No.</i>	<i>Average Annual Remuneration (\$)</i>	<i>Duty Passage</i>	<i>Accommodation</i>	<i>Dining, Travelling, and Other Miscellaneous Items</i>	<i>Official Entertainment^(Note 3)</i>	<i>Logistical Support^(Note 4)</i>	<i>Total</i>
(7)	APPU Executive Council meetings APP Co-operative Management Board meetings APP Co-operative General Assembly	Hainan, China	To attend meetings	7	-	-	1,644.00	4,505.00	3,131.00	-	-	9,280.00
(8)	Postal Operations Council/Council of Administration meetings of UPU	Switzerland	To attend meeting	15	-	-	20,516.00	13,188.00	21,006.00	-	-	54,710.00
(9)	APP Co-operative Management Board meeting	Singapore	To attend meeting	4	-	-	3,690.00	1,950.00	1,880.00	-	-	7,520.00

Note 1: Accompanying officers were those who provided support to the Directorate civil servants in the meetings/activities.

Note 2: (a) Expenditure excluded sponsorship received and those incurred in connection with dual or multi-purpose visits.

(b) Expenditure included those incurred by accompanying officers.

Note 3: Entertainment expenses were incurred on behalf of the delegation and, for the purpose of this table, were shown where the concerned Directorate civil servant was the head of the delegation.

Note 4: Expenditure on logistical support included such expenses as rental of delegation room, rental of mobile phone, fax machine, telephone line, and so on.

Noises Generated from Ballgames in Open Air Basketball Courts

13. **MR ALBERT CHAN** (in Chinese): *Madam President, I have recently received a number of complaints that some people play ball games during the small hours in the open air basketball courts at recreation grounds (such as the Chai Wan Kok Playground) managed by the Leisure and Cultural Services Department (LCSD), generating noises and causing nuisance to residents nearby. In this connection, will the Government inform this Council:*

- (a) of the number of open air basketball courts managed by the LCSD that are open to the public round the clock, together with the names and locations of these recreation grounds;*
- (b) of the number of complaints received in each of the past three years about the noises originating from the basketball courts during the small hours; and*
- (c) whether there are measures to tackle the noise problem mentioned above; if so, of the details of the measures; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my replies to the Honourable Member's questions are as follows:

- (a) The LCSD manages a total of 235 outdoor basketball courts opened on a 24-hour basis. These venues are listed at the Annex.
- (b) In the past three years, the LCSD received a total of 53 complaints (three cases in 2001-02, 25 each in 2002-03 and 2003-04) related to noise nuisances caused by activities in these courts.
- (c) The LCSD has taken a number of measures to tackle the problem of noise nuisance. District staff have increased their site inspections to problematic venues, particularly during night time to assess the situation. Where appropriate, notices are posted up to advise the public to be more considerate and to avoid causing any noise nuisance during the night. At the basketball courts where gates are provided and noise nuisance has occurred, such as those at

Hennessy Road Playground and Tsing Yi Park, we have locked up those courts after 11 pm until early in the morning. For those venues with more serious noise nuisance problem, district staff have also sought police assistance to arrange more patrols during the night as a deterrent against noise nuisance. As regards the Chai Wan Kok Playground in Tsuen Wan District, the LCSD has already posted up notices at the venue advising the public not to play ball games after 11 pm. A security guard has also been deployed recently to the venue after 11 pm to monitor the situation. We find the above measures have been effective so far.

Annex

LCSD's 24 Hours Basketball Courts

<i>District</i>	<i>Name of Venues</i>	<i>No. of Courts</i>
Southern	1. Aberdeen Promenade	1
	2. Ap Lei Chau Park	2
	3. Wong Chuk Hang Recreation Ground	1
Central and Western	4. Kennedy Town Playground	2
	5. Kennedy Town Service Reservoir Playground	2
	6. Kennedy Town Temporary Recreation Ground	1
	7. Kennedy Town Playground	1
Wan Chai	8. Lockhart Road Playground	1
Eastern	9. Victoria Park	4
	10. Braemar Hill Road Playground	2
	11. Java Road Playground	2
	12. Healthy Village Playground	2
Sham Shui Po	13. Cheung Sha Wan Playground	2
	14. Cheung Shun Street Playground	1
	15. Fa Hui Park	3
	16. Kwong Lee Road Playground	1
	17. Sham Shui Po Sports Ground	2
	18. Shek Kip Mei Central Playground	1
	19. Shek Kip Mei Park Stage III	2
	20. Shek Kip Mei Service Reservoir Playground	1
	21. Sheung Lei Uk Garden	2

<i>District</i>	<i>Name of Venues</i>	<i>No. of Courts</i>
	22. Tai Hang Tung Estate Playground No. 1	2
	23. Tung Chau Street Park	2
Yau Tsim Mong	24. Arthur Street Temporary Playground	1
	25. Tung On Street Rest Garden	1
	26. Hong Tat Path Garden	2
	27. King George V Memorial Park, Kowloon	1
	28. Tong Mei Road Children's Playground	1
Kowloon City	29. Ma Tau Wai Road Playground	1
	30. Carpenter Road Park	4
	31. Kowloon Tsai Park	2
	32. Junction Road Park	2
	33. Tokwawan Recreation Ground	2
	34. King's Park High Level Service Reservoir Playground	1
	35. Wuhu Street Temporary Playground	1
	36. Tsing Chau Street Playground	2
	37. Rutland Quadrant Children's Playground	1
	38. Sung Wong Toi Playground	2
	39. Kau Pui Lung Road Playground	1
	40. Perth Street Sports Ground	2
	41. Pui Ching Road Playground	1
	42. Oxford Road Playground	3
	43. Kent Road Garden	1
	44. Lung Cheung Road Playground	1
	45. Kam Shing Road Recreation Ground	1
	46. Tai Wan Road Playground	1
	47. King Wan Street Playground	1
Wong Tai Sin	48. Morse Park No. 3	3
	49. Choi Hung Road Playground	2
	50. Kai Tak East Playground	4
	51. King Fuk Street Playground	2
	52. Lok Wah Street Playground	2
	53. Muk Lun Street Playground	2
	54. Tze Wan Shan Estate Central Playground	1
	55. Tze Wan Shan Road Playground	2
Kwun Tong	56. Hiu Kwong Street Recreation Ground	1
	57. Hiu Ming Street Playground	1
	58. Hong Ning Road Recreation Ground	1
	59. Jordan Valley Playground	2

<i>District</i>	<i>Name of Venues</i>	<i>No. of Courts</i>
	60. Kowloon Bay Playground	2
	61. Kwun Tong Recreation Ground	3
	62. Lok Wah Playground	2
	63. On Tak Road Playground	1
	64. Ping Shek Playground	1
	65. Sam Ka Tsuen Recreation Ground	2
	66. Sau Nga Road Playground	2
	67. Ting On Street Playground	1
	68. Tsun Yip Street Playground	2
Islands	69. Mui Wo Playground	1
	70. Pui O Playground, Lantau	1
	71. Lower Cheung Sha Village Children Playground	1
	72. Tai O Recreation Ground, Lantau	1
	73. Sha Low Wan Playground, Lantau	1
	74. Pak Tai Temple Playground, Cheung Cahu	2
	75. Cheung Chau Sportsground	1
	76. Cheung Chau Park	1
	77. Peng Chau Waterfront Playground	2
	78. Yung Shue Wan Basketball Court, North Lamma	1
	79. Sok Kwu Wan Playground	1
Tuen Mun	80. Tsing Sin Street Basketball Court	1
	81. Fuk Hang Playground	1
	82. Hung Chung Road Playground	2
	83. Shek Pai Tau Playground	1
	84. Tsing Hoi Playground	1
	85. San Hui Playground	2
	86. Tin Ha Road Playground	1
	87. Wah Fat Playground	2
	88. San Wo Lane Playground	2
	89. Wu Shan Playground	4
Yuen Long	90. Chung Sing Path Playground	2
	91. Fung Kwan Street Garden	1
	92. Ha Wan Tsuen Basketball Court	1
	93. Hang Tau Tsuen Playground	1
	94. Kam Tin Po Tei Playground	1
	95. Kin Yip Street Playground	1
	96. Mong Tseng Wai Basketball Court	1
	97. Sheung Tsuen Park	1

<i>District</i>	<i>Name of Venues</i>	<i>No. of Courts</i>
	98. Shui Pin Tsuen Playground	1
	99. Sik Kong Tsuen Playground	1
	100. Tong Yan San Tsuen Playground	1
	101. Town Park South Playground	1
	102. Wang Toi Shan Playground	1
	103. Yuen Long Children's Playground	2
	104. Tin Shui Wai Park	2
Tsuen Wan	105. Sam Pei Square Playground	1
	106. Shek Pik Resettlers' Playground, Tsuen Wan	1
	107. Tsuen Wing Street Playground	4
	108. Hoi On Road Playground	1
	109. Chai Wan Kok Playground	2
	110. Sham Tseng Temporary Playground	1
	111. Kwok Shui Road Park	3
Kwai Tsing	112. Chung Kwai Chung Park	2
	113. Kau Wah Ken Village Playground	1
	114. Kwai Hop Street Playground	1
	115. Kwai Shing Circuit Playground	1
	116. Kwai Yi Road Playground	2
	117. Lai King Hill Road Playground	1
	118. Tai Lin Pai Road Playground	1
	119. Tai Loong Street Playground	2
	120. Tsing Yi Four Village Playground	2
	121. Mei King Playground	1
	122. Fung Shue Wo Resite Village Basketball Court	1
	123. Cheung Tat Road Sitting-out Area	1
	124. Kwai Chung Sports Ground	4
North	125. Chow Tin Tsuen Children's Playground	1
	126. Fan Ling Wai Playground	1
	127. Ho Sheung Heung Playground	1
	128. Kan Tau Wai Playground	1
	129. Kat O Playground	1
	130. Luen Wo Hui Playground	1
	131. Lung Yeuk Tau San Wai Children's Playground	1
	132. North District Park	3
	133. On Lok Tsuen Playground	1
	134. San Uk Leng Basketball Court	1
	135. Sha Ling Playground	1

<i>District</i>	<i>Name of Venues</i>	<i>No. of Courts</i>
	136. Shek Wu Hui Playground	1
	137. Sheung Shui Heung Basketball Court	2
	138. Wing Ling Basketball Court	1
	139. Ta Kwu Ling Chuk Yuen Playground	1
	140. Wo Hing Playground	2
	141. Yin Kong Playground	1
Tai Po	142. Tai Po Old Market Playground	1
	143. Tai Po Tau Playground	2
	144. Ping Long Playground	1
	145. Ting Kok Village Children's Playground	1
	146. Tong Min Tsuen Playground	1
Sha Tin	147. Ngau Pei Sha Street Playground	2
	148. Yuen Wo Playground	4
	149. San Mei Street Basketball Court	1
Sai Kung	150. Man Yee Playground	1
	151. Wan Man Road Playground	1
	152. Sha Kok Mei Basketball Court	1
	153. Hang Hau Basketball Court	1
	154. Po Hong Park	1
Total :		235

Equipping Patrol Vehicles with Computers for Reporting Cases

14. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the police do not intend to build smaller police stations in future, and from the end of this year police patrol vehicles will be equipped with computers with on-line link to police districts to facilitate the public in reporting cases. In this connection, will the Government inform this Council:*

- (a) *of the current average number of police stations in each administrative district of Hong Kong, and whether complaints have been received over the past two years about inadequate police stations; if so, of the details;*
- (b) *of the current total number of police patrol vehicles and the number of patrols conducted at the same spot every week; and*

- (c) *how it ensures that the public will be given appropriate assistance when necessary, following the replacement of smaller police stations with police patrol vehicles?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) There are 42 divisional police stations and five police land regions throughout the territory. On average, every police land region has 8.4 police stations. In the past two years, the police have not received any complaints about inadequacy of the number of police stations.
- (b) Patrol cars of the Police Force include "999" Emergency Unit cars; Regional traffic mobile patrol cars (four-wheel vehicles and motorcycles); and District or Divisional mobile patrol cars (four-wheel vehicles and motorcycles).

In respect of general-purpose four-wheel vehicles, the police now have 107 "999" Emergency Unit cars and 84 Regional traffic mobile patrol cars. Police motorcycles total 890, with 350 of them deployed primarily for traffic patrol tasks and the remaining for police general patrols, operational support and training purposes.

For Regional or District general mobile patrol, deployment is made by the respective commander in view of the local crime distribution and the need arising from other operational and support tasks. Thus, the number of patrols by car conducted at the same spot every week is not fixed.

- (c) The Police Force does not have any plan for replacing police stations with patrol cars.

In addition to making reports at police stations, members of the public can seek police assistance through various means such as fax, electronic mail, letters, "999" calls, and so on. Besides, the police are planning to set up Police Service Centres at various urban locations to enhance various services to the public, including the reporting of crimes and handling of lost property. With the aid of

these supporting facilities, the service and assistance rendered to the public by the police will be further strengthened.

Provision of School Boarding Services for Physically Handicapped Children

15. **MS EMILY LAU** (in Chinese): *Madam President, regarding the review of the policy to provide school boarding services for physically handicapped children conducted by the Education and Manpower Bureau, will the executive authorities inform this Council:*

- (a) of the review cycle and the criteria adopted in the review;*
- (b) of the date of the latest review conducted and its results, and whether such results have been made public; if not, the reasons for that; and*
- (c) whether they will consider inviting representatives of the relevant non-governmental organizations, District Councils and parent associations to take part in the next review; if so, of the relevant arrangements; if not, the reasons for that?*

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

- (a) The Education and Manpower Bureau reviews the supply and demand of the boarding service for students with physical disability annually, and reviews the policy on this service on a need basis from time to time. The criteria of the review include:
 - (i) whether there is an adequate provision of boarding service under the existing policy on boarding service;
 - (ii) whether the boarding service is of quality and effective under the existing policy of boarding service; and
 - (iii) whether the policy is in line with other government policies.

- (b) In September and October 2003, staff of the Bureau inspected the operation of the boarding section of special schools and collected relevant information from the schools thereafter. They briefed the relevant special schools on the findings of the observations and data analysed in early-June 2004. The briefing mainly covered the time-slotting of boarding activities and manpower allocation. At the meeting, we also exchanged views on possible measures to improve the quality and cost-effectiveness of the boarding service.

Moreover, at present, there is a school sponsoring body that proposes to trial run a small-scale boarding section in a school for children with physical disability on a self-financing basis. The Bureau is now assisting the school sponsoring body in exploring the details of this pilot project, including:

- (i) whether conversion of part of the school premises into a small-scale boarding section is technically feasible, whether the basic hygiene and safety requirements, and so on, are met, and whether teaching and learning and other relevant services of the school will be affected; and
 - (ii) whether small-scale boarding section is cost-effective, and whether its unit cost is comparable to that of the existing boarding sections of a larger scale.
- (c) The Bureau will draw reference to the results of the foregoing pilot project and, based on actual needs, further review the policy on the boarding sections concerned. At that time, the Bureau will consult the views of the major stakeholders, including the relevant schools, school sponsoring bodies and parents, and will inform them of the outcomes.

Policy on Premium for Home Ownership Scheme Flats

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, owners of Home Ownership Scheme (HOS) flats may sell, rent, or transfer the ownership of their*

flats in other ways in the open market upon the expiry of the alienation restriction period and the payment of a premium to the Housing Authority (HA). The amount of premium is determined on the basis of the purchase price of the flat, its market value at the time of purchase and the prevailing market value as assessed by the Housing Department (HD) (or its appointed surveyor). In this connection, will the Government inform this Council:

- (a) of the number of applications made by owners of HOS flats in Ma On Shan for premium assessment last year, the average market value of these flats as assessed by the HD, how the prevailing market values of HOS flats in this area compare with those of one year ago, the number of objections raised by owners of HOS flats in the area to the HD's assessment of the market values of their flats (MVA objection) in each month of last year, and the results of the objections;*
- (b) of the average time taken by the HD at present to process an MVA objection, and how this length of time compares with its performance pledge in this respect; whether the authorities concerned have reviewed the mechanism for processing MVA objections; if so, of the results of the review; if not, the reasons for that; and*
- (c) whether the authorities concerned have reviewed the policy on the premium for HOS flats; if so, of the results of the review; if not, the reasons for that?*

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

Madam President, my reply to the three-part question is as follows:

- (a) In the past year from 1 June 2003 to 31 May 2004, the HD had received 423 applications for premium assessment from owners of HOS flats in Ma On Shan. As individual HOS flats vary in terms of quality and location and their market values also change with time and market situations, we do not calculate the average market value of HOS flats in individual districts. Similarly, as the premium of

individual flats is assessed upon application instead of annually on a district basis, and in view of fluctuations in property prices, we do not make any comparison between the prevailing market value of HOS flats in individual districts with that of last year.

Of the 423 premium assessments on the HOS flats in Ma On Shan conducted last year, 32 cases had requested review. After review, the assessments of 17 cases remained unchanged while the remaining 15 cases were given downward adjustments ranging from \$2,200 to \$45,000. In addition, an owner in Ma On Shan had also appealed against the HD's assessment to the Lands Tribunal directly under paragraph 5(d) of the Schedule to the Housing Ordinance (Cap. 283) last year, resulting in reduction of the original assessment by \$14,000. Details are at Annex.

- (b) At present, the HOS flat owners who disagree with the premium assessment can either appeal to the Lands Tribunal in accordance with the Housing Ordinance or request a review by the HD within 28 days from the date of notice on the outcome of premium assessment.

There is no performance pledge for review of premium assessment. Notwithstanding, the HD processes such requests as promptly as possible insofar as manpower and actual circumstances permit. In general, it takes approximately a month to review a case, during which the HD will examine the arguments advanced by the owner (for example, about the conditions of the flat in question), analyse the latest data on property transactions and re-inspect the flat, and so on. Since priority is accorded to fresh applications, reviews usually take longer. For the 32 review cases in Ma On Shan received last year, the average processing time was 49 days. The HD has recently resorted again to outsourcing the work of premium assessment and subsequent review to expedite the process.

The mechanism for reviewing premium assessment is an administrative arrangement designed to deal with objections raised by the HOS flat owners in a flexible and expeditious manner outside

the statutory appeal system. To avoid delaying owners' timely disposal of their properties, the current arrangements allow them to sell, lease, assign or mortgage their HOS flats upon payment of the premium as initially assessed while waiting for the outcome of the review or appeal. Upon conclusion of the review or appeal, the HA will reimburse or recover any difference between the re-assessed premium and the paid premium. The existing mechanism caters for owners' interests and has been operating effectively. There is no plan for review at this stage.

- (c) The Housing Ordinance has set out in detail the restrictions on the alienation of HOS flats and associated premium payment arrangements. As a form of subsidized housing, the HOS flats were sold to eligible persons at prices well below market value. To ensure the proper use of public resources, the HOS flat owners are required to pay a premium to the HA before they sell, lease or assign their flats in the open market. The premium is calculated according to the formula stipulated in the Schedule to the Housing Ordinance with reference to the prevailing market value and the rate of discount applicable to the HOS flat concerned.

The HA reviews the policy on HOS flat premium from time to time and suitable adjustments are made whenever circumstances warrant. For instance, the Schedule to the Housing Ordinance was amended in 1992 to allow the HOS flat owners to appeal to the Lands Tribunal against the premium assessment made by the HD. In 1997, a new provision was incorporated into the Ordinance to enable the HOS flat owners to sell their flats under the Secondary Market Scheme to sitting public housing tenants without payment of premium, thereby enhancing the mobility of public housing tenants. In 1999, the resale restriction period for HOS flats was reduced from 10 to five years to increase the stock of saleable HOS flats to meet market demand. The current policy on HOS flat premium has struck a balance among the interests of HOS flat owners, the HA and the community at large. We have no plan to conduct another review of the policy at this stage.

Annex

Objections to Premium Assessment from
Owners of HOS Flats in Ma On Shan
(1 June 2003 to 31 May 2004)

<i>Date of Objection</i>	<i>Number of Cases</i>	<i>Outcome of Review (as compared with the original premium)</i>		
		<i>Reduction</i>	<i>No change</i>	<i>Increase</i>
June 2003	0	0	0	0
July 2003	2*	1*	1	0
August 2003	1	0	1	0
September 2003	1	0	1	0
October 2003	4	1	3	0
November 2003	1	0	1	0
December 2003	4	2	2	0
January 2004	3	1	2	0
February 2004	3	0	3	0
March 2004	2	0	2	0
April 2004	7	7	0	0
May 2004	5	4	1	0
Total	33	16	17	0

* Includes a case in which the owner appealed to the Lands Tribunal directly on 4 July 2003. The Tribunal decided on 31 October 2003 that the original premium should be reduced.

Preserving Views of Ridgelines Along both Sides of Victoria Harbour

17. **MS EMILY LAU** (in Chinese): *Madam President, the Planning Department has incorporated the recommendations of a consultancy study on Urban Design Guidelines for Hong Kong, completed in 2003, into the Hong Kong Planning Standards and Guidelines, which stipulate that in developing the waterfront on both sides of Victoria Harbour, blockage of views of the ridgelines by buildings should be avoided, and buildings should be of appropriate scale and façade treatment to avoid creating an impermeable "wall". In this connection, will the executive authorities inform this Council:*

- (a) *of the respective projected numbers of buildings of 60 to 69 storeys, 70 to 79 storeys and 80 storeys or above on both sides of Victoria Harbour which will be completed in the next three years, and their geographical distribution;*
- (b) *whether they have asked the developers of these buildings to assess at the design stage if the heights and appearances of such buildings satisfy the above criteria; if they have, whether they know the assessment results; if not, of the reasons for that; and*
- (c) *whether they will consider imposing statutory building height restrictions in designated areas so as to preserve the views of the ridgelines along both sides of Victoria Harbour and to avoid creating an impermeable wall along the waterfront?*

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

Madam President, my answers to the three parts of the above question are as follows:

- (a) Based on the current assessment of the progress of works, a total of 13 buildings over 60 storeys will be built on both sides of Victoria Harbour in the next three years. Their heights and geographical distribution are as follows:

	<i>60 to 69 storeys</i>	<i>70 to 79 storeys</i>	<i>80 storeys or above</i>
(a) Kowloon Station of Mass Transit Railway Corporation Airport Express, Tsim Sha Tsui	5		1
(b) Yeung Uk Road, Tsuen Wan	1	1	
(c) Sai Wan Ho Ferry Concourse	5		

- (b) Chapter 11 "Urban Design Guidelines" of the Hong Kong Planning Standards and Guidelines was published in November 2003. As the building plans of the abovementioned 13 buildings were approved before that date, the Guidelines are not applicable to these buildings.

- (c) Before the relocation of the Kai Tak Airport to Chek Lap Kok in 1998, buildings in most parts of the Victoria Harbour (in particular Kowloon Peninsula) were subject to stringent statutory height restrictions for the airport and related areas. Building height restrictions were also laid down in some land leases. As such, the outline zoning plans (OZP) normally set no restrictions on the building height.

To protect the views of the ridgelines as well as the Harbour, and to preserve the characteristics of some residential districts after the relocation of the Kai Tak Airport in 1998, the Planning Department has been reviewing the relevant OZPs to set out appropriate building height restrictions. Areas that are subject to building height restrictions include the Central reclamation area, North Point, Mid-levels East, Wan Chai North, South East Kowloon, Hung Hom and Shek Kip Mei. The Planning Department just completed a review on the building height restrictions for Kowloon Bay and Kwun Tong business areas. On 19 March 2004, the Town Planning Board promulgated planning guidelines to impose interim building height control measures for these areas. The Planning Department is now conducting a public consultation on the review. After this, the height restrictions will be determined and be incorporated into the relevant OZPs. Following the Kowloon Bay and Kwun Tong business areas, the Planning Department will gradually proceed with reviews on other areas along the Victoria Harbour.

Forged Smart Identity Cards

18. **MR LAU KONG-WAH** (in Chinese): *Madam President, it was reported that in a joint operation early this month, the police forces in Macao and Zhuhai uncovered a cross-boundary criminal syndicate specialized in forging documents, and among the articles seized were some high-quality forged Hong Kong smart identity cards. In this connection, will the Government inform this Council whether:*

- (a) *the Hong Kong police has participated in this operation in terms of intelligence and manpower; if so, of the form of its participation; if*

not, the reasons for that and whether it has assessed if the liaison and co-operation between the Hong Kong police and its Macao and mainland counterparts are adequate;

- (b) there is any evidence indicating that the forged smart identity cards seized by the Hong Kong police in the past were made by this criminal syndicate; if so, why the Hong Kong police had not been able to uncover this criminal syndicate at an earlier time; if not, the estimated current number of cross-boundary criminal syndicates involved in forging smart identity cards; and*
- (c) the anti-forgery features adopted for Hong Kong smart identity cards have been grasped by the lawless elements; if so, of the remedial measures to be taken?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) All along, we are very concerned about and have attached great importance to cross-boundary criminal activities of forgery syndicates. A well-established communication mechanism is in place for our law enforcement agencies to maintain close liaison and exchange information with the relevant mainland, Macao and overseas authorities as well as representatives of consulates in Hong Kong on issues of mutual concern, including cross-boundary criminal activities of forgery syndicates. As for the case concerned, original intelligence indicated that the target of operation would not involve any forged Hong Kong identity documents and, therefore, our law enforcement agencies were not invited to participate in the operation. However, upon learning about the case, the Immigration Department (ImmD) had liaised with the relevant mainland and Macao enforcement agencies and obtained relevant information for appropriate follow-up actions.
- (b) As soon as forged Hong Kong smart identity cards were uncovered early this year, the ImmD has, in collaboration with the relevant mainland enforcement agencies, been investigating the cases actively. We do not preclude that criminal syndicates are involved

but further details cannot be disclosed while investigations are underway. However, there is no evidence to suggest that the alleged criminal syndicate was involved in cases of forged smart identity cards found in Hong Kong in the past.

- (c) Forged Hong Kong smart identity cards seized by us early this year were of poor quality and defects could be spotted easily. As for the forged identity cards seized lately, they are of better quality. Nevertheless, the forgers are unable to grasp the anti-forgery features which are unique to the smart identity cards, such as optical variable ink, multiple laser image, kineprint that enables images to change colours when viewed at different angles, and high-quality laser engraved photograph on polycarbonate card body. It is not difficult for the general public to differentiate between a genuine card and a fake one under careful scrutiny. To prevent the public and employers from being deceived, the ImmD has strengthened publicity in this respect. Apart from producing posters and pamphlets for public reference, it has held talks for banks, property management companies, construction companies and law enforcement agencies. A hotline (2824 1551) has also been set up to facilitate enquiries by the public and employers.

Management of Drugs by Public Hospitals

19. **DR LAW CHI-KWONG** (in Chinese): *Madam President, regarding the management of drugs by public hospitals, will the Government inform this Council whether it knows:*

- (a) *the total quantity and value of the drugs that were discarded by the pharmacies of public hospitals in each of the past three years because their validity had expired, together with a breakdown by the types of drugs;*
- (b) *the details of the drugs with the largest quantity or highest value among those discarded by each hospital cluster in each of the past three years, including their names, the quantity discarded, the total value and the diseases they are prescribed to cure; and*

- (c) *if the Hospital Authority (HA) has studied the reasons for the occurrence of the situation in which some drugs are not yet consumed upon the expiry of validity and have to be discarded, and the measures to avoid the occurrence of such situation?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese):
Madam President,

- (a) The pharmacological classifications and total costs of drugs, which were condemned by the HA because their validity had expired, in each of the past three years are set out in the table below:

<i>Classes</i>	<i>Total Cost (HK\$)</i>		
	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
Drugs for Gastrointestinal System	17,003	19,860	14,944
Drugs for Cardiovascular System	98,882	82,492	52,424
Drugs for Respiratory System	36,975	37,243	34,612
Drugs for Central Nervous System	95,078	100,680	129,608
Drugs for Infections	91,744	91,992	86,607
Drugs for Endocrine System	56,964	69,689	100,886
Drugs for O&G/Urinary Tract	36,833	10,644	12,155
Cytotoxic & Immunosup Drugs	136,005	44,423	54,181
Nitrition/Blood-related Drugs	135,618	58,116	147,418
Drugs for Musculoskeletal Disorder	12,340	7,580	10,433
Drugs for the Eye	16,484	13,255	14,183
Drugs for Ear/Nose/Oropharynx	3,484	2,260	1,625
Drugs for dermatologicals	29,849	23,592	22,647
Drugs - Vaccines/Immuologicals	20,583	6,271	9,717
Anaesthetics/Medical Gases	50,626	31,275	54,196
Drugs for treating Poisoning and Emergency	780,643	749,393	869,703
Others	25,926	44,672	32,527
Total	1,645,038	1,393,437	1,647,868

- (b) The details of the drugs with the highest value among those condemned in each Hospital Cluster, including their pharmacological classifications, intended use, the quantity condemned and their value, are set out in the table below:

Year 2001-02

<i>Cluster</i>	<i>Use</i>	<i>Drug Name</i>	<i>Quantity</i>	<i>Base Unit</i>	<i>Value (HK\$)</i>
HKE	Immuno-suppressant	CYCLOSPORIN A SOLUTION 100MG/ML	5	Bottle	13,041
HKW	Antitoxin	BOTULISM TRIVALENT ANTITOXIN INFUSION 250ML	3	Bottle	47,260
KE	Anti-Psychotics	MOLINDONE HCL TABLET 10MG	676	Tablet	11,945
KC	Antitoxin	BOTULISM TRIVALENT ANTITOXIN INFUSION 250ML	2	Bottle	33,300
KW	Anti-Hyperthermia	DANTROLENE SODIUM INJECTION 20MG	57	Ampoule	20,954
NTE	Anti-Hyperthermia	DANTROLENE SODIUM INJECTION 20MG	73	Ampoule	29,493
NTW	Anti-Hyperthermia	DANTROLENE SODIUM INJECTION 20MG	54	Ampoule	23,986

Year 2002-03

<i>Cluster</i>	<i>Use</i>	<i>Drug Name</i>	<i>Quantity</i>	<i>Base Unit</i>	<i>Value (HK\$)</i>
HKE	Antidote	CALCIUM DISODIUM VERSENATE INJECTION 200MG/ML 5ML	30	Ampoule	10,461
HKW	Antibiotic	SYNERCID (OR EQUIV) INFUSION 500MG	67	Vial	32,160
KE	Anti-Haemophilia	FACTOR IX COMPLEX (HUMAN) (RC) INJECTION 500 IU	42	Bottle	16,968
KC	Anti-platelet	STREPTOKINASE INJECTION 1500000U	8	Vial	7,480
KW	Antidote	DIMERCAPROL INJECTION 50MG/ML 2ML	39	Ampoule	24,346

<i>Cluster</i>	<i>Use</i>	<i>Drug Name</i>	<i>Quantity</i>	<i>Base Unit</i>	<i>Value (HK\$)</i>
NTE	Antitoxin	BOTULISM TRIVALENT ANTITOXIN INFUSION 250ML	4	Bottle	66,600
NTW	Blood Product	PLASMA PROTEIN FRACTION (RC) INJECTION 5% 250ML	107	Bottle	20,640

Year 2003-04

<i>Cluster</i>	<i>Use</i>	<i>Drug Name</i>	<i>Quantity</i>	<i>Base Unit</i>	<i>Value (HK\$)</i>
HKE	Antidote	DIMERCAPROL INJECTION 50MG/ML 2ML	20	Ampoule	12,443
HKW	Endocrinal	BROMOCRIPTINE MESYLATE CAPSULE 10MG	1 028	Capsule	5,140
KE	Antidote	PRALIDOXIME IODIDE INJECTION 25MG/ML 20ML	128	Ampoule	24,894
KC	Anti-Haemophilia	FACTOR XI CONCENTRATE INJECTION	6 300	Unit	76,052
KW	Anti-arrhythmia	BRETYLIUM TOSYLATE INJECTION 50MG/ML 10ML	180	Ampoule	78,070
NTE	Respiratory stimulant	DOXAPRAM HCL INJECTION 20MG/ML 20ML	62	Vial	27,768
NTW	Antidote	DIMERCAPROL INJECTION 50MG/ML 2ML	55	Ampole	32,908

- (c) In each of the past three years, the total value of expired drugs, which were condemned, constituted less than 0.1% of the total value of drugs purchased. The main reasons for these drugs to remain unused until expiry are as follows:

- (i) the need for keeping an adequate stock of "standby" drugs, such as antidotes, antivenoms and other emergency drugs for the treatment of poisoning and certain acute fatal diseases. The occurrences of poisoning cases and certain acute fatal diseases are rare, but once such conditions are diagnosed, the appropriate drugs have to be administered immediately. Many of these standby drugs are imported from overseas, which usually require a long lead-time for delivery. It is, therefore, both necessary and prudent for the HA to keep a sufficient stock of stand-by drugs at all times for emergency use. This type of drugs constitutes the largest portion of the total annual cost of expired drugs;
- (ii) the need for stocking "second-line" drugs, which may be required by certain patients who are not responsive to the standard (or "first-line") drugs for particular diseases;
- (iii) unused stock of drugs that are being phased out due to changes in medical practice or the introduction of more cost-effective alternatives; and
- (iv) unused stock of drugs the use of which have to be reduced or stopped immediately due to reports of serious side-effects.

The HA has taken the following measures to minimize the quantity and value of expired drugs:

- (i) improving liaison between pharmacy staff and physicians/nurses to determine the optimal stock level for each of the stand-by drug;
- (ii) requiring suppliers of slow-moving drugs to supply stock with the longest possible shelf-life as far as possible;
- (iii) enhancing the pharmacy computer system of hospitals for continuous monitoring of stock levels of all drugs in the pharmacy, whereby slow-moving drugs stocked in certain hospitals would be channelled for use in others;

- (iv) securing the agreement of some suppliers to take back expired drugs and replacing them with new ones.

Appointment of Members of School-based Management Committees of Government Schools

20. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, it has been reported that a former Secretary-General of the Hong Kong Federation of Students, who had been fined \$600 and bound over for three months for taking part in a demonstration, was selected by the alumni association of a government secondary school to act as a member of the school-based management committee (SMC) of the school at the end of 2001, and delayed for more than 10 months before the Permanent Secretary for Education and Manpower (PSEM), who has the power to refuse to appoint a member of the SMC of a government school, offered him conditional appointment. In this connection, will the Government inform this Council:*

- (a) *of the details of the above incident, including the date at which the relevant person was selected by the alumni association, the stance of the Education and Manpower Bureau, the progress of the case, and the inclination of the alumni association; and whether there have been similar incidents since the reunification; if so, of the relevant details;*
- (b) *of the basis of the PSEM's power to refuse to appoint an the SMC member; if the basis is legislative, of the relevant section(s) and details of the provision(s); if the basis is an administrative decision made according to policy, of the relevant policy document(s), guidelines or regulations; and whether an elected member of an SMC of a government school is, like a manager of a subsidized school, entitled to seek judicial review when his/her appointment has been rejected;*
- (c) *whether concrete criteria are in place for determining if the appointment of an SMC member of a government school should be rejected; if they are, of the details of the conditions and considerations pertinent to refusing to appoint an elected member of*

an SMC of a government school, with an explanation on the relevant procedural arrangement;

- (d) whether the authorities will take into account the nature of the relevant offence in considering if a person with a criminal record should be precluded from taking up the post of member of an SMC of a government school; as the offence committed by the relevant person in the above incident was a very minor one, why the PSEM still refused to appoint that person as an SMC member;*
- (e) during the period from the election of the person involved in the above incident to act as the SMC member to the beginning of June this year when the incident was revealed by the media, whether the authorities have informed all the teachers and students of the school of the fact that the person had not been appointed, and after the revelation of the incident, whether the authorities have explained the matter; if they have, of the details of the explanation; if not, the reasons for that and whether the lack of explanation contradicts the spirit of democracy, accountability and high transparency of school-based management; if they have, of the assessment results; and*
- (f) whether the authorities have appointed anyone with a criminal record to act as a member of the SMC of a government school since the reunification; if they have, of the details?*

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

- (a) The person in question is a member of the alumni association of the government secondary school and was elected by the association in November 2002 to act as one of the two representatives of the alumni to the SMC. He later declared that he had a criminal conviction relating to an offence committed in May 2001 against which he was appealing.

Subsequently, the school concerned and this Bureau contacted the alumnus to ascertain the details of his criminal conviction. The

information furnished in January 2003 disclosed that he had had two criminal convictions relating to offences committed in May 2001 and February 2002. His appeal related to the conviction of February 2002. Noting that the offences were committed within a short period of time (that is, May 2001 to February 2002), the Bureau decided to determine his nomination for appointment to the SMC after his appeal against the second conviction had been decided by the Court.

The alumni association elected a new cabinet at its annual general meeting held in November 2003 and maintained its decision as to its elected representative. Although the appeal was heard in February 2004, the date of decision was still unknown.

In view of the fact that the appeal is in progress and having regard to the resolution of the alumni association, this Bureau decided that the alumnus is to be conditionally appointed as an SMC member, subject to a decision to be made after the verdict of the appeal.

Since the introduction of the SMC framework in government schools in the 1999-2000 academic year, there has been no similar incident.

- (b) Government schools are educational institutions run by the Government under the direct control and management of the Bureau. Being the officer responsible for government schools, the PSEM has to formulate policies and instructions relating to their operations.

To enhance the effectiveness and to increase the transparency of the government schools, with effect from the 1999-2000 school year, an SMC framework was set up for government schools and a sample constitution for such the SMCs drawn up by this Bureau. The appointment of any SMC member nominated by the chairman of the SMC is made by the PSEM under the constitution of the SMC. Unless there are any special reasons, the persons nominated by the chairman of the SMC are appointed by the PSEM as the SMC members.

The SMC is an administrative body established by a constitution which is not legislation. Judicial review is therefore unlikely to be applicable in this case.

- (c) As schools are the venues for nurturing young people's moral and ethical values, this Bureau has stringent requirements as regards conduct, integrity and character for persons who wish to participate in education service, including the SMC members.

Generally speaking, the chairman of the SMC will consider a nomination by the relevant sector, and will decide whether to nominate the individual for appointment by the PSEM.

- (d) As mentioned in part (c) above, this Bureau has stringent requirements for the SMC members of government schools as regards conduct, integrity and character. If a person has committed an act which offends morality or ethics, he will not be appointed a member of an SMC. Where a person has been convicted criminal offences within a short period of time, this also calls into question whether this person has any respect for the law.
- (e) Adhering to the principles of accountability and transparency, the chairman of the SMC and the school have been in communication with the SMC (the members of which include the school principal, representatives from the teachers, the alumni association and the Parent-Teacher Association of the school) and the alumni association concerned to keep them informed of developments in the case.

As the nomination of the individual concerned contains his personal particulars, it was not appropriate to discuss the case with other persons or on occasions other than in the context of the SMC and the alumni association.

- (f) Since the introduction of the SMC structure to government schools in the 1999-2000 school year, this Bureau has adhered to the criteria stated in (c) above in appointing the SMC members in government schools. This Bureau has not received any nominations for

appointment to the SMC relating to persons with criminal convictions within the past 20 years.

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): Bills. We will resume the Second Reading debate on the Landlord and Tenant (Consolidation) (Amendment) Bill 2003.

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 2003.

Resumption of debate on Second Reading which was moved on 11 June 2003

PRESIDENT (in Cantonese): Ms Audrey EU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MS AUDREY EU (in Cantonese): Madam President, I will first report on the deliberations of the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2003 (the Bills Committee) in my capacity as Chairman of the Bills Committee.

The main aim of the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 (the Bill) is to remove security of tenure provisions for domestic tenancies and the minimum notice requirement for terminating non-domestic tenancies in the Landlord and Tenant (Consolidation) Ordinance (the Ordinance). The Bills Committee had no objection to removing the minimum notice requirement for terminating non-domestic tenancies but held different views on removing the security of tenure for domestic tenancies.

The existing security of tenure was introduced in 1981. According to the relevant provisions, if a tenant is willing to pay the prevailing market rent when renewing the tenancy, the landlord will have to agree to the tenancy renewal.

Since the Bill proposes the removal of the restrictions on security of tenure, the Bills Committee was concerned that many tenants under existing tenancies would make use of the existing mechanism to submit, before the Bill comes into force, applications to the Lands Tribunal for a new tenancy. This could drastically increase the workload of the Lands Tribunal and create a serious backlog of cases. After discussions with the Administration, a consensus was eventually reached on the transitional arrangement. Under the arrangement, a landlord who wishes to terminate an existing tenancy must, on or after the tenancy's contractual end date, serve a transitional termination notice on his tenant no less than 12 months before his intended termination date. During this period, the tenancy will continue to run on all existing terms to ensure sufficient time for the tenant to find another dwelling. In the case of a periodic tenancy which does not have a contractual end date, the landlord can serve a 12-month transitional termination notice on or after the end date of the first term after the Bill has come into force. Tenants, on the other hand, will have the option of terminating the tenancy by serving a transitional termination notice no less than one month before the day on which it is to take effect. Tenancies entered into after the coming into operation of the Bill will not be subject to this transitional arrangement.

Concern has been raised by some members that the removal of security of tenure may push up rents in the private market, thereby unduly affecting tenants, particularly those underprivileged groups such as elderly singletons, dwellers living in cubicles and bedspace apartments and those with chronic illness who may have difficulties in finding suitable alternative accommodation. To this end, Mr Albert HO will move a Committee stage amendment to retain security of tenure for tenements with rateable value below \$60,000. The Administration has expressed objection to the amendment, as it is grossly unfair to landlords of low-rateable value tenements. Mr James TIEN, speaking on behalf of the Liberal Party, also doubted if the threshold for the rateable value was too high, as it would result in 50% of tenements being exempted from the application of the Bill. To give enhanced protection to tenants residing in low-rateable value tenements, Mr Howard YOUNG indicated that he would move Committee stage amendments to extend the period of transitional termination notice to be served by landlords for tenements of rateable value below \$36,000 to a period of three years, instead of 12 months as proposed by the Government.

In addition, Mr Howard YOUNG, Mr Albert HO and Mr James TO also indicated that they would move Committee stage amendments to the effect that

the benefits and protection afforded in the tenancy to the tenant and made available to the widow, widower, mother, father or any daughter or son over the age of 18 years who resides with the tenant at the time of the tenant's death will be extended to cover, respectively, a sibling, personal representative or any person.

Apart from the removal of security of tenure, the Bill also removes the existing provisions for payment of statutory compensation by landlords, including the Urban Renewal Authority (URA), to tenants in acquisition of domestic properties for redevelopment. The Bills Committee was concerned that the removal would not only run contrary to the legitimate expectation of tenants, particularly those of the remaining projects announced by the former Land Development Corporation (LDC) who have been waiting for redevelopment for so long, but would also be at variance with the people-oriented approach advocated by the URA. Members also pointed out that at the passage of the Urban Redevelopment Authority Bill, the Administration undertook that the cash allowance offered to tenants affected by URA projects would not be less than that provided for under the Landlord and Tenant (Consolidation) Ordinance. After repeated requests from the Bills Committee, the URA finally agreed to adopt the existing compensation formula under the Ordinance in calculating *ex gratia* compensation and retain the minimum payments currently payable under existing policy to eligible domestic tenants of properties required for redevelopment in the remaining projects announced by the former LDC. The URA also indicated that it had included these projects in its latest approved Corporate Plan and priority had been accorded to them. To this end, the authorities will also incorporate the undertaking made by the URA in the speech to be given by the Secretary for Housing, Planning and Lands at the resumption of Second Reading of the Bill. The Bills Committee noted that the arrangement had only dealt with the part on statutory compensation and that the part on non-statutory compensation would have to be followed up by the relevant Panel with the URA.

On non-LDC projects, another policy on compensation will be formulated by the URA. According to members' understanding, affected domestic tenants will be offered rehousing in estates of the Housing Authority or Housing Society or in URA-owned accommodation if eligible, and tenants not eligible for rehousing or who are eligible but do not wish to accept rehousing will be offered *ex gratia* cash payments. The URA will also adjust the compensation

arrangement to reflect prevailing circumstances and the requirements of individual projects.

As a tenant should have no reason not to move out upon expiry of a tenancy when the security of tenure regime no longer exists, the Bills Committee considered that there was room for further streamlining of the repossession process. After consultation with relevant departments, Committee stage amendments will be moved to the effect that the opposition period for a tenant to file an opposition to the landlord's application be reduced from 14 days to seven days. Members also noted that the Judiciary Administrator had implemented business process re-engineering initiatives, which had resulted in a reduction of the average time required for a bailiff to execute Writs of Possession from 30 days to 25 days. The proposed repossession procedure in respect of a tenancy which has expired will therefore take around 63 days or 70 days, depending on whether an opposition has been filed by the tenant to the landlord's application.

Madam President, I will now speak in my capacity as a Member of the Legislative Council.

The Hong Kong economy has always adhered to the principles of free market and fair play. They are also crucial to Hong Kong's prosperity and success and are the other core values besides democracy, the rule of law and human rights. In fact, the aim of relaxing the restrictions on security of tenure is to allow the market to resume free operation, enable landlords and tenants to make arrangements on their own and respect the spirit of contract. I remember that on one occasion, my Member's office organized a legal seminar to discuss this Ordinance relating to landlords and tenants. A question was raised as to why couples who were unhappy with one another or had personality clashes could divorce each other, yet the law provided that landlords could not repossess their flats when the tenancies expired, even if the two parties got along like water and oil. Madam President, to this question of landlords being bedeviled by troublesome tenants, I think it is indeed difficult to give any answer. In fact, the background against which the Government introduced the security of tenure in 1981 was that there had been a serious shortfall of domestic accommodation leading to significant rental increases. Therefore, the economic and historical backgrounds were special. With the passage of time and changed circumstances, the situation nowadays is in stark contrast with that in those years: the housing supply nowadays is abundant, and as far as the rents are concerned,

according to the statistics provided by the Administration, the average rent in September last year dropped substantially by almost 50% compared with that during the peak in 1997. Therefore, it is now arguably the appropriate time to remove the security of tenure.

The Government stressed that the removal of security of tenure will give a boost to the rental market and assist property owners in possession of negative equity assets in freeing themselves from the bonds. I think all these considerations are secondary. What matters most is to allow the rental of properties to resume free market operation and reduce government intervention to a minimum.

If we look at it from another angle, the removal of security of tenure, coupled with the passage of the legislation by the Legislative Council last year to speed up the repossession process, will serve to effectively curb the rampant emergence of "rogue tenants" in recent years. In fact, instances of landlords bullying tenants or the other way round should not be condoned. The law should strike a balance between the interests of the two sides as far as possible, rather than being partial. If the legislation is biased in favour of tenants, the rights of landlords cannot be adequately protected and a lot of investors who originally intend to purchase properties to let them out will be discouraged, thus impeding the development of the market.

In view of the above principles, I believe that both the Democratic Party's proposal to allow tenancies with an annual rateable value below \$60,000 to continue to be covered by security of tenure, and the Liberal Party's proposal to require landlords of properties with an annual rateable value below \$36,000 to give notice 36 months in advance before repossession are all at variance with the free-market principle. In fact, to classify landlords according to the rateable value of their flats and treat them differently will create another kind of inequality. People cannot help but ask, "Why landlords whose flats have lower rental values will receive less protection?" Any delineation is unnatural and tenants who find themselves just above the line or owners who find themselves just below the line will feel being treated unfairly. The amendment proposed by the Liberal Party will make it necessary for landlords below the line to give a notice period of 36 months, that is, of three years when repossessing a flat at whatever point of time, even if it is 10 years after the passage of the Bill. Within the notice period, any rent increase is not allowed. This period is even longer than the one or two years specified in tenancies found in the market.

This is the main reason for which I cannot support the amendment proposed by Mr Howard YOUNG of the Liberal Party.

Although we have the responsibility to look after the underprivileged, this responsibility should not rest on individual landlords. We hope that society as a whole and the Government will assume it. I agree that society should not allow anyone to become homeless, therefore, the Government should provide a sound safety net. For tenants in difficulties, in particular single-parent families, elderly singletons, families or singletons living in cubicles, arrangements should be made early if they meet the requirements for applying public housing. For people who do not meet the application requirements, compassionate rehousing should be considered, or rehousing in various types of hostels run by the Social Welfare Department in collaboration with voluntary agencies, Comprehensive Social Security Assistance, and so on, should be offered if special circumstances exist. I know that in order to persuade Honourable colleagues into supporting the Bill today, the Government has undertaken to do its utmost to assist tenants in difficulty in parallel with introducing this piece of legislation. We will listen carefully to the pledges to be made by the Secretary before casting our final votes. With these remarks, I support the Second Reading of the Bill.

MR ALBERT HO (in Cantonese): Madam President, the security of tenure provisions have existed in our legislation for many years, well over 20 years. During the formulation of this legislation, the most important consideration was, of course, its function in stabilizing society, so that the Government might have reasonable justification in making proportionate and reasonable intervention.

In the past, the protection provided in the legislation in relation to landlords and tenants was indeed on two aspects. One of them was the rate of rental increase. In the past, residential buildings of Hong Kong could be divided into a few categories according to different rates of rental increase. We may still remember Part I, Part II and Part IV, which are also categorized according to rateable value. With the changed circumstances, a lot of buildings have become the fourth category from the first two categories, which are then subject to regulation under the so-called Part IV. Nowadays, before this Bill is passed today, Part IV is still the protected area, that is, tenants have to pay prevailing market rent. In the event that the tenant refuses to reach an agreement on rental with the landlord, the landlord also has the right to apply to

Court for determination of the prevailing market rent. This is the history about the protection of rental increase.

The other aspect of protection is the so-called security of tenure. In regard to this kind of protection, basically, we are mostly concerned about the so-called Part IV residential buildings. At present, if the landlord of a flat wants to repossess the flat for self-occupation, whether due to personal need or the use of immediate members of his family, even he may have other property, only if he can persuade the Court of his reasonable need, he can repossess the flat for self-occupation. The other scenario is that if the landlord has to repossess the building for redevelopment, he can also apply to the Court. If the Court considers that the reason of redevelopment is really founded, and that the landlord has a genuine need to repossess the building for redevelopment, the landlord will have the right to require the tenants to return the building. Of course, the landlord has to make compensation according to the law.

Madam President, the existing arrangement has been in place for more than 20 years, and has served certain function in social stability. Two years ago, the Secretary for Housing, Planning and Lands proposed to conduct a review, in the hope that security of tenure could be fully relaxed. One of the purposes was not to impose too many restrictions on the free market. As far as I can recall, it was not Secretary Michael SUEN, but the former Deputy Secretary, Ms Elaine CHUNG, who discussed with us then. She also mentioned that the property market was very stagnant, and hoped that with the removal of the tenure provisions, the market could become more active.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

During the consultation period, the Democratic Party also adopted a positive attitude. We opined that the tenure restrictions could be relaxed. But right from the very beginning, we also clearly indicated that this kind of social policies with such wide implications warranted the so-called social impact study. Since some 200 000 tenants would be affected, the tenure of tens of thousands of people might be involved, and thus this had to be carefully considered. We also hoped that the Administration could conduct the survey study as soon as possible. I later noted that the Administration had conducted a number of questionnaire

surveys. However, as we expressed in the Panel meetings in the past, we have some reservations about the random sampling and other aspects of questionnaire surveys.

One of the issues that we have raised in the Panel is the Administration's failure to give a whole picture to the respondents on the possible implications of the legislation, especially on some old tenement buildings. If this Bill is passed, the security of tenure will be completely removed. If these old buildings are repossessed for redevelopment, the tenants concerned will not be compensated at all. The Administration did not tell them this fact at all, particularly when a lot of old areas then had already been designated as old areas warranting redevelopment.

Later on, the Panel found out during meetings that the 20-odd districts already announced for redevelopment by the URA would bear the brunt of implications of this legislation. People living in these 20-odd districts had been waiting for the Government to arrange for acquisition of the buildings, provision of rehousing and compensation. During the period when efforts were made to push through the Urban Renewal Authority Bill, some government officials visited the districts concerned many times. Deputy Secretary Stephen FISHER then was very hardworking indeed. He clearly explained to these people affected by redevelopment that nothing would be changed, all the undertakings would be maintained and compensation would be granted according to the provisions in the Landlord and Tenant (Consolidation) Ordinance.

Subsequently, for a period of time, the Government raised a point of argument that since the security would be removed, there would not be any compensation. It would be zero compensation according to the provisions of the Ordinance. This kind of remarks would certainly provoke an outcry in the community. Here I would like to raise a point, that when the Government, in conducting the social impact study, did not examine in detail whether a situation would appear. The situation is that when the security of tenure is removed completely, there will be a strong wave of repossession. And this is the first aspect.

Since the Administration failed to conduct a full study, it had to propose later a transitional period of one year. One of the considerations was its worry that the Courts would have to deal with many cases at one time. I reckon that the Government should have given detailed consideration to this beforehand.

Second, just as Ms Audrey EU also mentioned earlier, we are most concerned about some unprivileged social groups or families of lower income. Most of these low-income families live in old districts. Those with comparatively better means can live in individual units, while those of relatively poor conditions may have to live in partitioned flats. Due to various reasons, these low-income families cannot live in public housing. Some of them are still on the Waiting List, some of them may have half of their family members having resided in Hong Kong for less than seven years, while some of them may have borrowed loans from the Hong Kong Housing Authority for home purchase. However bad their situation may be, they still cannot fall into the five categories of people eligible for the Government's compassionate treatment. Both the Housing, Planning and Lands Bureau and the Housing Department have explained which five categories of families are eligible for compassionate treatment. Although the situation of a lot of people is not as worse as this, they still belong to very low income families. While they cannot live in public housing, they are also unable to move into housing units of the Housing Society. They have to rent the old flats. Once they are forced to move out, their choices are also limited. Since old buildings in the old districts charge lower rentals and are nearer to the urban area, while the transportation expenses will also be lower, it is very likely that they will rent these places again.

In the event that this Bill is passed to the effect that landlords can repossess the buildings freely, upon the expiry of the tenancies after one or two years, if the tenants are unable to reach an agreement with the landlords concerning the rental, they will have to move out. When they move, they have to face two problems. The first problem is related to the removal costs, which may have very great impact on the low-income group. The second problem is related to those people whose income is not so stable or who are unable to provide income proof. If they have many family members, including elderly, children and even persons with chronicle illnesses, landlords may ask them to pay a higher rent as a kind of protection. This situation is understandable. People who let the buildings out have the right to ask for a higher rent as a kind of protection, and can ask the tenants to pay more in deposit. This will deal a heavy blow to or have great impact on those who pay some \$3,000 to rent a room, partitioned room or small unit on say, the fifth floor of an old building in an old district. Every time they move, it is a heavy burden to them.

Therefore, although the Democratic Party does not oppose the basic direction of this law, which is deregulation, as full regulation has been

implemented for such a long period of time, it is time to conduct a review to see whether deregulation should be conducted in one go or by stages, at least such regulation can be relaxed by half at present and then the situation be reviewed again after two years. Can this approach not be considered entirely? Why would political issues entail such kind of careful consideration, while issues concerning social policies and free market can all be treated so slightly?

As to the question of whether it will be unfair to use the rateable value for demarcation purposes, I also acknowledge that it is better to adopt a standard approach in dealing with a matter. However, from another point of view, we are now talking about changing the *status quo*. We are now not asking the Government to interfere, but asking the Government not to interfere instead. A change of the *status quo* will be welcomed by some people who will benefit from it. But for those who will not get any benefits, their situation will not get worse. Therefore, why should we not act more prudently?

The Democratic Party does not oppose conducting a review. Our suggestion is that the regulation of 120 000 households can be relaxed before conducting a review. Why is that not possible? Why should it be conducted in haste, especially when a social impact study is lacking? Furthermore, it has long been the practice that residential units are classified into various categories for different regulation. I do not think there will be any technical difficulties. The Rating and Valuation Department will clearly take its estimated value as the basis. Besides, Parts I, II and IV of this Ordinance have long been like this. I opine that the long-standing rental control system should be relaxed in an orderly and strategic manner. If the above approach will cause any instability to the rental market in the future and trigger off serious waves of repossession to the severe distress of many people, it is only due to rental deregulation in one go. I reckon that the Government should take the responsibility. I have to point out once again and put it on record that the Government should bear the responsibility for its failure in conducting a clear, definitive and comprehensive assessment.

It is very likely that the amendment proposed by the Democratic Party today will not gain the support of Members, particularly when we have to go through a separate voting system. However, for the sake of presenting the arguments on the basis of principles, we have to set forth our views. The other issue is related to the transitional arrangements.

I thank Mr James TIEN of the Liberal Party for listening to our views so attentively during the meetings, and for considering the likely implications on the underprivileged social groups. As regards the amendment proposed by him, I hope that a time limit would not be set. That is, concerning the \$36,000, I hope that the Government can, after this Amendment Ordinance has come into effect for a period of time, review again whether it can be further relaxed. However, he finally also suggested setting a time limit of three years. Of course, this is the decision of the Liberal Party. Nevertheless, it is after all better than none. Hence, I will support the Liberal Party's amendment.

In regard to the amendment related to the one-year notice presently proposed by the Government, it is of course an improvement on the original proposal. However, due to the order of voting, I am unable to support the Government. If I support the Government, it is not possible for me to support the Liberal Party. I hold that on principle, or morally, I should support Mr Howard YOUNG. I believe that he has proposed this amendment on behalf of Mr James TIEN.

I appreciate the approach of the URA. On this issue, it has listened to the views of a lot of Members and considered the background of the whole issue. The incumbent members of the URA are not involved in the passage of the law, and they do not know what undertaking was made by the Government. But in the end, they are still willing to take care of the reasonable expectations of the public and to assume a past commitment, to which I extend my welcome. However, if this Bill is passed, the most unfair aspect is that it will be entirely unnecessary for private developers to make any compensation for repossession. There will be some so-called compensation outside the law only if the repossession is done by statutory organizations or by the URA. I feel most sorry about this unfair situation.

The final point concerns "rogue tenants". I feel that this is completely unrelated to this legislation. Of course, during the formulation of this Bill, we have urged the Government to improve the procedures, and we also extend our welcome to this. However, the entire legislation cannot improve the situation concerning "rogue tenants". "Rogue tenants" are making use of the loopholes in court proceedings, and therefore I hope that we can distinguish this situation.

I so submit. Thank you, Madam Deputy.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, the tenancy control legislation was enacted by the Government long time ago. At that time, as there was a serious shortage of residential units for lease, the bargaining power of tenants was weak. It was therefore necessary to introduce the legislation to protect tenants from being evicted by unscrupulous landlords or being subject to excessive rental increases.

With the passage of time, nowadays, the only protection left in the legislation was to safeguard tenants from being evicted, and other protection, such as that on rent control, has been removed indeed. As there is an abundant supply of rental flats in Hong Kong, the majority of tenants no longer need worry about not being able to find suitable dwellings, or being forced to accept unreasonable rents. It is thus the right time to remove once and for all the provisions on tenancy control.

In the Liberal Party's views, as soon as the provisions on tenancy control are removed from the legislation, over 200 000 premises in the market will no longer be subject to any restriction. While landlords do not have to worry about not being able to repossess their leased premise upon the expiry of tenancy, they will be more willing to rent out their flats, thus boosting the supply in the market and offering more choices for tenants. With reduced restrictions on the owners, it will bring positive impact on the market, which is something we all look forward to achieving.

At the same time, the deregulation of tenancy control can also address the problem of "rogue tenants" that troubles the landlords — we all agree of course that it is not the primary purpose of the bill, but then the problem does exist — thus enabling owners to repossess their flats from these "rogue tenants" without going through cumbersome and costly procedures, thereby minimizing their loss.

The Liberal Party shares the Government's view on the deregulation of tenancy control. While unnecessary protection to tenants is no longer required, the Government should also minimize market intervention. Apart from allowing the market to resume free operation, it can also boost the property market. For both landlords and tenants, they can make choices that are most beneficial to themselves in accordance with the market conditions. This proposal achieves multiple purposes and has all the merits without any demerit.

It was just mentioned that a number of various Committee stage amendments would be moved later on. There are several points that I wish to raise later at the Committee stage, but it seems that the Government has got enough votes in hand. As I may not have the chance to speak later, so I am going to put forward all my views now. *(Laughter)* We are of the opinion that the deregulation of tenancy control to liberalize the private rental market can encourage more landlords to let out their flats.

Nevertheless, the Liberal Party holds a different view on a certain issue. While supporting the deregulation of tenancy control, I also hope that the housing need of the lower stratum of the community would not be overlooked. As Mr Albert HO just said, some people are still living in cubicles. As such, on behalf of the Liberal Party, I am going to move an amendment today, to propose an extension of the notification period for tenements with a rental below \$3,000 per month to three years. We are worried that upon the passage of deregulation of tenancy control, these tenants might be evicted before they could have an opportunity to find alternative dwellings, or they might suffer losses for lack of bargaining power. When the Government first heard our proposal, it stated that it might bring substantial impact or unfairness to some small landlords.

I wish to point out that, at present, the total number of flats with a rental lower than \$3,000 per month is about 35 000. According to the Government, among these tenants, 70% have been residing in the units for less than two years, more than 20% will be move out within four years and the remaining 10%, accounting for a few thousands of households, are mostly people living in cubicles. They are not people of the lower middle class, but the grass-roots level, and some of them are elderly persons who may not be eligible for public housing. We have proposed this amendment out of our conscience and in the interest of people at the grass-roots level. As the Liberal Party always says, we will say "yes" on justified occasions and "no" on unjustified occasions. We will do whatever we should in the interest of Hong Kong.

With these remarks, the Liberal Party supports the Second Reading of this Bill.

MR LEUNG YIU-CHUNG (in Cantonese): Madam Deputy, the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 proposed by the Government for

passage today seeks to remove all protection for tenants in one go. I opine that this is an act that takes no regard of the interests of tenants and will in particular deal a heavy blow to low-income families and badly-off tenants.

The views of the Government and those people who support the removal of security of tenure restrictions are mainly based on investment considerations. They think that it will stimulate the rental market and will be conducive to investment. However, some property owners are also of the view (which I share) that it can combat the problem of rogue tenants. But we must understand that although the removal of security of tenure provisions can bring along a good plan to stimulate the rental market and combat the problem of rogue tenants, this should not be the only consideration of the policy. Instead, consideration should be given to the overall implication, in particular the possible heavy impact on the socially disadvantaged.

Madam Deputy, we do not agree to the removal of security of tenure restrictions by the Government in one go because the policy will have a great impact on small tenants, who are comparatively disadvantaged. The removal of security of tenure restrictions will definitely cause rents to rise sharply. Although the Government has repeatedly stressed that the current property market is very much different from what it was 30 years ago when the relevant legislation was introduced. At that time, there was a serious shortage of property, leading to continuous rental increases. The Government has also pointed out that at the end of 2002, there were about 74 000 vacant units in the property market, and as at September 2003, the average rental had dropped by about 40% compared with the peak in 1997. Thus, the Government considers that tenants will not be subjected to heavy pressure of rental increase even if the security of tenure restrictions are removed. However, I must point out that although there are 74 000 vacant units and there has been no significant rental increase, the problem remains whether all these 74 000 units are for lease. Actually, many of these units are for sale rather than lease. Even if they are for lease, are their rents affordable by the general public, the low and middle classes and the socially disadvantaged? The great majority of them are not. Therefore, the rise and fall of rents is of no significance to the socially disadvantaged, and our concern is the accommodation of low-income tenants.

The Government has also pointed out that rental increase is not the greatest problem resulting from the present Bill. However, I hope that the Government will understand that even though rents are falling, the income of

low-income families is on the fall too. These socially disadvantaged people will be in dire hardships if rents rise upon implementation of the Bill to remove security of tenure restrictions while their income is falling. As there has been no increase in their income, it will definitely be a heavy blow to them if rents rise. Besides facing increasing pressure in their daily lives, they may have to resort to other alternatives, that is, to choose to live in a poorer environment. If so, what good does the removal of security of tenure provisions bring to these small tenants?

Of course, the Government may think that as the present situation indicates, rents will not rise sharply, and so low-income tenants will not be significantly affected. If this is true, why does the Government anticipate that there will be increased investment in properties for rental purpose? Is the Government not contradicting itself if it really thinks so?

In fact, what tenants worry about is not just the rents but the overall right of dwelling. As pointed out by some tenant organizations, housing is a necessity and should not be looked upon simply as a common commodity. Under existing legislation, there is protection for tenure or continuation of tenure, which affords tenants relatively stable accommodation, so that they can live assured in the community. This stability will certainly be affected by the coming into operation of the Amendment Ordinance, and tenants will be forced to move their homes frequently. There is a saying that relocation, even to a flat just one floor below, would entail considerable expenses. The new legislation will surely cause a great nuisance to tenants upon its commencement. The Government perhaps thinks that as most existing tenancies last for a term not exceeding two years, tenants should be prepared to move away in two years' time anyway. Therefore, they will not be affected in any manner even if the legislation comes into effect.

However, as pointed out by the Property Agencies Association, the Amendment Ordinance deprives tenants of their original right to tenancy renewal. Under existing legislation, tenants have the right to renew the tenancy provided that there is no change in the lease conditions. As a result, most tenants rarely bother about the tenancy term. In general, it does not matter much to the tenant even if the tenancy is a short-term one. However, the case will be different upon commencement of the Amendment Ordinance. By that time, tenants will have to move their homes at short intervals if the tenancy terms are short. This is a great nuisance and heavy burden to small tenants.

Besides affecting low-income households and tenants, the Bill has another serious problem, that is, it will bring uncertainties to tenants affected by redevelopment. Apart from removal of security of tenure restrictions, the Bill also removes the provisions for payment of compensation by landlords, including developers and the Urban Renewal Authority (URA), to tenants in acquisition of properties for redevelopment. This casts doubt as to whether the Government wishes to reduce the URA's compensation expenditure by amending the Ordinance.

The Government at first thought that after the passage of the Amendment Bill, compensation payable by the URA would be reduced in accordance with the amended provisions, and the compensation payable to some tenants might be reduced by more than 50%. Subsequent to repeated requests by various parties, the Government made the undertaking that the formula for calculating compensation would remain unchanged for LDC-committed projects. We are of course agreeable and most supportive to the Government for its finally taking such a view. However, there is still uncertainty as to whether compensation will be offered for future URA projects in accordance with the principle of the relevant legislation enacted in 2000. The Secretary may wish to reiterate these undertakings later, but we have no confidence in such undertakings. We are also concerned that the Government may make further legislative amendments later so that all these so-called undertakings will turn into bubbles and the entitlement of tenants to compensation will be afforded no protection. Therefore, we are of the view that the Bill will have enormous impact on tenants.

Compensation is of course a subject of concern to tenants. But besides money, tenants are also troubled by the possible problem of eviction and rehousing. Statistics indicate that 60 000 tenancies are short-term ones. This implies that some 60 000 households may face eviction shortly after the passage of the Bill, becoming homeless because they may not be able to meet the requirements for tenancy renewal, that is, protection under existing legislation has been removed.

Furthermore, in view of the inclusion of their units in redevelopment projects, landlords may ask their tenants to move away upon expiry of existing tenancies so as to obtain more compensation for themselves. Thus, tenants will not be able to obtain the redevelopment compensation or rehousing that they have waited for years. In drafting the Bill, the Government basically has not taken into consideration this loophole from the point of view of tenants.

Unfortunately the Government is also unable to help tenants affected by redevelopment solve the problem of not being provided with appropriate rehousing. Many tenant organizations have pointed out that these tenants may not be eligible for public rental housing (PRH) upon implementation of redevelopment projects in the future because of former grants of housing subsidy or other reasons. Even if they are eligible, as most redevelopment projects are in the urban area, where there are very few PRH estates, they may have to move to a remote area, thus causing great impact on their living, such as travelling expenses. The old and weak will be even more seriously affected as they have to move away from their own community. We all know that elderly persons living in the community will often be taken care of by their neighbours. If they are forced to leave their community, they will face great difficulties in their daily lives. Therefore, the Bill should have also taken into consideration the difficulties that redevelopment projects bring to tenants. But unfortunately, the Government has not thought about it.

I must stress here again that although the sweeping removal of security of tenure restrictions by the Government affects small tenants in the manner I mentioned, it may of course be welcomed by some small landlords who think that it would help them address the problem of rogue tenants. As a matter of fact, I also agree to this. We should address and tackle the problem of rogue tenants seriously, because they have caused great losses to many small landlords. In addition, under the existing legislation, it is difficult for some negative equity property owners to deal with the negative equity problem. However, the problem is whether the Amendment Ordinance can resolve the problem of rogue tenants and whether this is in fact the only solution. In fact, I consider that it may not be necessary to combat the problem of rogue tenants in this manner. There are many other ways to deal with it. In particular, we may study and consider the feasibility of streamlining current repossession procedures without resorting to adopt the present all-in-one-go approach, which will have great impact on small landlords and small tenants.

One of the arguments of landlord representatives who support the Bill is that the responsibility of providing assistance to small tenants lies with the Government and not the small landlords, and the Government should not shift the responsibility on to the small landlords on the excuse of tenancy control, which is tantamount to causing small landlords to subsidize low-income earners. I agree very much with this argument because the responsibility of addressing the housing problem of low-income tenants should be borne by the Government.

Unfortunately, the progress, speed and production of public housing by the Government cannot meet the current needs. Therefore, if the Government really wants to implement this Bill, please produce a greater number of PRH flats at the same time to effect the expeditious provision of PRH to eligible low-income earners, so that they may resolve their housing problem without relying on the private market. Thus, they will also be relieved from the immense pressure imposed by the need to move their homes frequently, the lack of tenancy control and rental upsurge.

Therefore, I shall support Mr Albert HO's amendment in the hope that small tenants will be afforded greater protection.

I so submit.

MR JAMES TIEN (in Cantonese): Madam Deputy, all along, the Liberal Party has always held this view on the Landlord and Tenant (Consolidation) Ordinance: This Ordinance has been implemented for several decades, and in the past we implemented it due to the inadequate housing supply in Hong Kong. Of course, by housing supply, we refer to domestic flats, not offices, production plants or wholesale and retail shops.

For many years, the policies implemented by the Government have never distinguished between high-priced, medium-priced and low-priced flats. A certain property developer or investor who owns a deluxe flat in Repulse Bay may rent it to the HSBC or the Citibank. Although the tenant is wealthier than the landlord, that property is still under tenancy control. All along, we feel that tenancy control is unnecessary under such circumstances because both parties are commercial organizations and both have bargaining power. Besides, it is mostly the case of a company paying the rent for the inhabitant and the rent is included as part of the remuneration package of the inhabitant. As such, why should the Government step in to intervene? However, the Government says no, all properties must come under this tenancy control regime.

Of course, we can also note that the supply of public housing and Home Ownership Scheme flats was inadequate in the '70s and the '80s. So people from the lower strata of society or the poorer people found that tenants could easily be evicted by landlords from premises of lower rents if there was no protection at all. In short, once the two-year tenancy expired, landlords might

ask the tenants to move out. It was unfair to tenants. Therefore, the Government formulated a law to provide that, unless the property concerned was repossessed for self-occupation or redevelopment, the landlord could not repossess it even for use by his own son. It must be for self-occupation. We have always felt that if there is an insufficient supply of flats on the market, we may let this legislation continue to exist. However, in recent years, substantial changes have taken place. The "85 000 flats" policy has led to the accumulation of a large number of flats in Hong Kong. As such, the property rental market is very much different from before, and the alleged difficulty in finding rental accommodation does not exist anymore. What is more, I also notice that the non-existence of difficulty in finding rental accommodation is not restricted to any particular class of accommodation. In fact, the demand and supply situation has eased. From deluxe flats in the Repulse Bay and the Peak, to accommodation for the middle class, or even the more affordable flats, there are always more flats available than prospective tenants looking for rental accommodation. Therefore, as the present situation shows, it is absolutely unnecessary to have any tenancy control. On this point alone, the Liberal Party supports the justifications put forward by the Government. Therefore, when the Government put forward this Bill, the Liberal Party immediately indicated its support for scrapping the part on tenancy control in the Landlord and Tenant (Consolidation) Ordinance.

Of course, in the course of deliberation, we raised a lot of questions on the redevelopment of the urban area conducted by the Urban Renewal Authority (URA). We notice that the URA has initially proposed to provide some compensation, which is later enhanced to enable the tenants to receive better compensation when they are forced to move out. We feel that this is right, and we are also happy that they can reach such a consensus. Apart from the problems faced by the URA in urban redevelopment (Mr LEUNG Yiu-chung must have some different opinions in this regard), I feel that we must strike a balance among the different aspirations of people from all walks of life in society in rebuilding the community. After the area is redeveloped, of course the residents will not be so lucky as to be rehoused in the original district; they will probably have to move to a more remote district and as a result they may feel inconvenient. This is inevitable. However, in order to strike a balance with the overall interest of society, we still have to proceed with urban redevelopment projects. Although some people will be slightly unfortunate, in that they can no longer stay in Mong Kok or Wan Chai after the completion of the redevelopment projects, and they may have to move to some remote areas, we still hope that the

people can appreciate the point of balancing the interests of society, and be willing to support the Government.

Next, after the deregulation of tenancy control on certain domestic accommodation with a higher rental value, what should be done about flats with a lower rental value? In the beginning, Mr Albert HO suggested that flats with a rental below \$5,000 a month could all be exempted from regulation by this legislation. The Liberal Party feels that such a proposal will depart greatly from the original legislative intent, which is to give effect to a full removal of tenancy control, instead of removing the control for half of the existing 220 000 or so tenancy contracts, but not removing the control for the remaining half (there are about 110 000 tenancy contracts for flats with a monthly rental below \$5,000). We feel that such an approach would make the people confused about the policies of the Government. For this reason, we do not support the proposal.

However, in the meantime, as he has raised such a suggestion, we also feel that this is not bad. Now, we do have some poorer tenants, and we also have some small landlords. In this regard, we have looked up a lot of data. We asked if the monthly rental was not \$5,000, how much was it? How many tenancies were taken up for \$4,500? How many for \$4,000? How many for \$3,000? How many for \$2,000? We found that there are about 35 000 tenancy contracts executed with a monthly rental below \$3,000. This has been mentioned by Mr Howard YOUNG. If, among the total number of 220 000 contracts, only 35 000 contracts are executed with a monthly rental of less than \$3,000, we feel that the quantity is not too substantial. Mr Howard YOUNG also reminded us that, in the course of deliberations on the Bill, the Bills Committee had learned from the Rating and Valuation Department that, among these 35 000 flats, nearly 70% of such tenants stayed less than two years, that is, some tenants would move out on their own initiative after living in the flats for a year or so. As they are moving out of their own accord, it does not constitute any difficulty on the part of the landlords. And the tenants would not have any difficulty either. Another 20% of the tenants would move out within four years. In other words, nearly 90% of such tenants would move out in three or four years.

For these remaining 10% tenants who may live longer than four or five years in their rented accommodation for a monthly rental of less than \$3,000, we propose to further extend the notification period by two years from the one-year proposal, which is already extended by the Government from the original

one-month period. We feel that this proposal can strike a balance between the interests of the poor tenants and small landlords.

I agree entirely with the point made by some people: The properties involved with these landlords or tenants are not bought by the Liberal Party or the Chambers of Commerce for investment because all these properties are some very low-priced properties. So why should we bother to put forward this proposal? We feel that, as we have participated in the deliberations on a bill, we should not depart from the purpose that the Government wants us to achieve, nor should we act as the rubber stamp to support whatever proposed by the Government — such as when the Government proposes a one-year period, we say we support it; and suddenly when they change it to one month, that is, the one-year period has gone, and we still say we support it. On the other hand, we feel that it will certainly not work for flats with low rents if we do not further extend the grace period by two years. We feel that as we have made so much effort to study the Bill, it is only reasonable that we should put forward such a proposed amendment.

Of course, we also understand that, if the Government does not agree with our viewpoint, they can conduct their own analysis. In the course of deliberations, we also noticed one thing. Many people asked us, "Why should we want to give more time to those who live in accommodation with a monthly rental of several thousand dollars?" We think that people living in properties with a monthly rental of less than \$3,000 may earn very mediocre incomes, and they may also work in the same districts in which they are living. Although we can say that there are many dwellings with a monthly rental of less than \$3,000 in the market, the crux of the problem is: If they are made to move from Kwun Tong to Wong Tai Sin, it may entail very substantial travelling expenses. We must also take the travelling expenses into consideration. They would feel that they might be inconvenienced by both the time and money spent on travel. Of course, we hope that the local economy can become strong again. However, our economy is now beginning to revive, though it has not fully revived yet. In future, these people may earn more if our economy could improve considerably. By then, they will have greater affordability if they are asked to move away. For this reason, we propose to give them two additional years of grace. With this, they should find it easier to accept.

Certainly, the Government still has another rationale, that is, there are still something called contracts. How should we handle those flats with tenancy

contracts? In fact, there is absolutely no need for us to discuss this. No matter which proposed grace period is eventually adopted, be it the Government's one-year period extended from the original one month, or our proposed three-year period, we must respect the spirit of contract. If a contract specifies that the tenancy should be valid for two years, then the grace period can only apply after the term of the contract has expired.

Some people may say, if these two years are added upon the expiry of the three-year period, then it will be five years altogether. If the Amendment Bill is enacted, any landlord would know that the Bill has been enacted in this way. For existing contracts, upon the expiry of the so-called two-year contract period, the landlords should become wiser — they should by all means change the status of the tenants into monthly tenants, that is, the tenancy should be valid on a month-to-month basis. If a month-to-month basis is adopted, you do not have to take the trouble of granting him another two years upon the expiry of the three-year grace period. This practice has already been adopted in many of the existing tenancies. If the landlord allows the tenant to continue living in the flat for two more years, of course the latter has to pay the market rent, in this way, the landlord's interests can be safeguarded without renewing the contract with the tenants for two additional years. The landlord may say that he is not prepared to renew the contract, and the tenancy will be renewed on a month-to-month basis. Now, many tenancies are renewed on a month-to-month basis. Many people have adopted such a practice. As it is on a month-to-month basis, the removal of the security of tenure will take effect after the three-year period has expired, and the landlord does not have to wait until the lapse of three years plus one day to add in the two years for a renewed tenancy upon the expiry of the old, making it a total of five years. We feel that, or we assume that some people may do it this way. However, if the landlord has a "clear" mind, he should by no means act so foolishly as to grant another two-year renewed tenancy if any existing contract should expire within this three-year period. The landlord should tell the tenant: Anyway, regardless of the length of your remaining tenancy, be it 18, 12 or 11 months, I am going to let you become a monthly tenant. When the removal of security of tenure comes into effect three years later, it will also apply to this tenancy.

Madam Deputy, I would also like to mention one final point. It is understandable that the Government would lobby Honourable Members to support certain bills or oppose the amendments proposed by certain Members.

However, I have received a letter bearing the signature of Secretary Michael SUEN. I thought there were some problems with my eyes as I read it — the letter was dated "28 of the Fifth Year, 2004"(in Chinese). It could not be the Fifth Year, it must be May instead. This letter must be sent on 28 May to members of the entire Bills Committee. It is so amazing. They can come up with something like "28 of the Fifth Year, 2004"(in Chinese). What kind of sentence is included in this letter? They were opposing the proposal, which they thought was put forward by me — "In view of the above reasons, the Government opposes Mr TIEN's amendment, which will benefit neither the landlords nor the tenants. We shall not take the initiative of moving any Committee stage amendments in this regard. However, we hope Mr James TIEN may reconsider whether it is necessary to move such an amendment.". These remarks are acceptable, but the next sentence really bewilders me — "Such an amendment, if enacted, will inevitably become a bad law in history." Oh, no! Is it really necessary to make such a great fuss over this? For legislative amendments, the Government often proposes to postpone the commencement dates of bills by one year after enactment. For me, I have just proposed to extend the commencement date by two years, is it true that such an extension will make the Bill "a bad law in history?"

Madam Deputy, I just want to bring up this point. The Securities and Futures Ordinance was enacted on 13 March 2002, many measures of which have been given grace periods ranging from two to three years. Are we going to condemn another colleague of the Secretary, Secretary Frederick MA, as enacting some bad laws in history as well? Recently, the highly controversial Education (Amendment) Bill 2002 is expected to be enacted next week. In the aspect of school-based management, the Government has recently proposed to introduce a grace period of five years plus two years, that is, the grace period will be as long as seven years, which is much longer than the three years proposed by me. Is the legislation formulated by Secretary Prof Arthur LI also a bad law in history? Let us come back to Secretary SUEN. The legal provisions on excavation permits formulated by him were enacted on 14 May 2003, but the effective date of such provisions was 1 April this year. They were also given one whole year as a grace period. If legal provisions proposed by the Government are enacted, regardless when they are enacted, how long the grace periods are, be they one year, two years or three years, they will all become good laws in history. But why would those proposed by us become the bad laws in history? Secretary SUEN has always been kind and friendly in his

daily dealing with us, therefore, I feel that, perhaps all that he has done in this letter was just putting his signature on it.

Madam Deputy, that is all I want to say. Thank you.

MISS CHAN YUEN-HAN (in Cantonese): Madam Deputy, in the deliberations on this Bill, the two issues which I am most concerned about are, firstly, the compensation which tenants of residential buildings affected by urban renewal will receive, as I am very much worried that the Government will change the pledge it has made during the deliberations on the bill related to the Urban Renewal Authority (URA); and secondly, the protection in the security of tenure enjoyed by the low-income tenants and those from the grassroots who are not eligible for public housing.

Madam Deputy, in principle I do not oppose to the removal of the security of tenure, for the figures reveal that the number of vacant flats for lease has increased and there is actually such a call for removal in the community, especially among the landlords. We can see that the security of tenure was introduced back in 1981 when there was a serious shortfall in the supply of flats and when tenancies were renewed, rents would surge by a great extent. The situation was simply out of hand. Though with the introduction of this legislation, problems like "key money" still exist, the enactment of this legislation at that time did serve to prevent landlords from engaging in unscrupulous acts like evicting the tenants and wilfully increasing the rents. In addition, with the increase in the supply of public rental housing units, we can see that the problem has improved somewhat and with respect to "key money", the situation has improved.

One of the "nine strokes of SUEN" launched in 2002 is on the deregulation of tenancy control to revitalize the rental market. Apparently, this is a move made by the Government to prop up the market. Though the Government claims that the move is meant to tackle the rogue tenants, I think that this is only a bonus. Once the security of tenure is removed, we are worried that rents will be pushed higher. Though the Government says that presently there are lots of flats available for rent, we are doubtful if these flats fall evenly in the areas which people would prefer to live in. So this would cause a great impact on the tenants, including the elderly singletons, those living in cubicles and bed spaces, as well as those earning a low income. These people are making a meagre

income and their earning ability is low. The impact they suffer would lead to many new problems.

In connection with these two issues, I have made numerous contacts with those tenants living in old urban areas and some social workers. I find that these tenants are mostly grassroots, leading a miserable life in these old urban areas. They want the Government to preserve the protection given to the security of tenure under a certain threshold. This afternoon they are putting forward this demand again. When I met them, I made my views known to them. I told them that I understood their plight but I could also see that some of the landlords were also poor and if we would just regulate one party, that would be similarly unfair to these poor landlords or small landlords. These landlords have also written many letters to us and have put forward their views to the Bills Committee. So we have faced this dilemma in scrutinizing this Bill. We feel that the claims of both parties should be considered. But how can a balance be struck? This is the biggest problem encountered by us during the deliberations and this is also the point where most contentions have emerged.

Madam Deputy, with respect to the deregulation of tenancy control, I would think that people will either agree with it completely or oppose it completely. If I am asked to consider a dividing line, I would need to think hard about it, as for example in regard to the proposal made by Mr Albert HO in his amendment, I have thought about it for a long time. I think the impact caused would be even greater if the dividing line is drawn at tenancies valued at \$5,000 or below. If the line is drawn at tenancies valued at \$3,000 or below, that would affect the poorest of the poor. So I have tried to redraw this line over and over again and think about it. I believe the residents, friends and social workers whom I have made contact with all know that my feelings are mixed. So if a line is drawn, more problems may arise.

A colleague of mine once queried and said to me that I should not help those big landlords and not the small landlords. Those big landlords are those with properties that can be leased at \$5,000 or more, they may choose what tenants they want. But the small landlords do not enjoy this freedom. So this would not work. This is the question which people close to me have been posing to me.

Madam Deputy, why do I waver between these two lines? For I can see that in the past when there was security of tenure, that was strictly speaking a

right to accommodation, and the people given protection were the poor. I think that the responsibility to take care of these people should rest on the Government. But now a confrontation seems to have appeared between tenants and landlords. I once pointed out to the residents that if a question was asked on the current situation, the policy according to the Government would be that no persons would be deprived of a dwelling place in Hong Kong. That is what the Government has been saying to us. This is a responsibility which the Government should shoulder in the first place. Mr SUEN, you have nodded and that means I am right. However, with respect to this issue, the Government has not offered any protection to the poor people.

Madam Deputy, apart from coming into contact with some residents living in the old urban areas, I also hold meetings often with residents in the district where I live. People would often come to me and say, "Sister Han, you often help those who live in public housing estates, but why do you not help us?" I think we all know that in those old urban areas there are many people who are not eligible for public housing. This is especially the case when the income level for eligibility for public housing has been constantly revised downwards and so more and more people have become ineligible for public housing. Among these people, many are elderly persons and some are newly-weds, and their income may just exceed the limit. So they are rejected. And they are forced to live in these old areas. Some of them may have lived with their parents in the public housing estates, but due to the policy on well-off tenants, they have been forced to move out of the public housing estates. So what should they do? As a result, I personally remain undecided on this issue.

Madam Deputy, the night before last I talked with an official called Mr TAM till very late into the night. I asked him to promise me that he would protect the right of these grassroots to live in public housing estates. I also hope that Mr SUEN will respond to this later on, for once restrictions on tenancy control are removed, this group of people will face even greater difficulties. Of course, another government department would say that it is no cause for concern, for there are lots of flats in the market waiting for lease. But from my observation, the situation is not like this. For example, some areas in Wan Chai are going to be redeveloped. But it is impossible for those living in Wan Chai to use the same amount of money they are paying to rent another flat in Wan Chai. I know this because I live in Wan Chai too. On that night when I met Mr TAM, I told him that I failed to see how people could rent another flat in

Wan Chai using the same amount of money they were paying for the flat in which they were dwelling. But he said that there were a lot of flats for rent. I told him that he was wrong, for in the building in which I lived, there was a big landlord who had bought many flats but he did not want to let them. He was just trying to acquire all the flats in the building one by one. So would the Government stop thinking that there would be flats for rent when they are not occupied?

I hope the Government will understand that consideration should be given to protecting the landlords as well as those tenants in difficulty when tenancy control is to be removed. I hope I can hear Mr SUEN respond to that later. I really hope that he can give me an answer. I do not hope that those in need would be ignored when a decision is made today. Though the circumstances in our community have changed and conditions are right for removing tenancy control, we should think about how the rights of these people should be protected in removing tenancy control. I really hope that the Government can be committed in this matter and do not shift the responsibility onto the small landlords. This is also the issue about which I find it hard to make a decision.

Madam Deputy, there is one point I have to stress again. The Government always claims that what these tenants in old urban areas are after is not accommodation but money. I once told Billy LAM that he was wrong. These tenants really want to live in the public housing estates, but the only available flats may be in Tin Shui Wai. So what can they do if they are asked to move from Sham Shui Po to Tin Shui Wai or from Sham Shui Po to Sheung Shui, or when they are asked to move from Hong Kong Island to a remote place as there are very few public housing estates on Hong Kong Island? I hope Members will understand the present situation and not be misled by superficial information, thinking like the Government that these residents in old urban areas are only after the compensation. As a matter of fact, in every 10 of this kind of tenants I have asked, 9.9 of them told me that they wanted to live in the public housing estates. But they are scared off when the Government pulls the buildings down for redevelopment. If Members want to listen to other examples, they can ask them to come here. This is my personal experience. Madam Deputy, the Government owes a responsibility to this group of grassroots, especially the group which I have just mentioned. They are marginalized for they are not eligible to apply for public housing and so they are in a very difficult situation. The Government should also stop creating conflicts and clashes between landlords and tenants.

I would also like to talk about the URA mentioned earlier. The URA is an interesting case, for it is now short of funds. When we were deliberating on this Bill, I noted that of the 25 projects announced by the former Land Development Corporation (LDC), more than 10 of them had not commenced. This is something I am very much concerned about. I find that the "7-5-3-1" plan proposed by the URA during our deliberation on the Bill is now no more. That plan was a pledge made by Mr Stephen FISHER to the Legislative Council. All in all, the original plan is no more after one such example. Colleagues in the Legislative Council and the residents are all against it. All of us have placed our hopes on the LDC and these projects cannot simply be abandoned when it is said that it is not possible to carry them out. We cannot hold Mr Billy LAM accountable for it alone, for the Policy Bureau itself should also bear this responsibility.

Then since a pledge was made, all the residents would have some expectations. Moreover, these people are in a very difficult, miserable situation. Ever since the LDC made an announcement in 1997, these people have been waiting. Now after such a long time and when tenancy control is to be removed, the pledge given to them will not be honoured. We have strong opinions about it. After many rounds of debates, the URA finally agreed, and I reckon the Government may have provided the funding to Billy LAM.

There is, however, another pledge that the Government has wanted to see it disappear into the thin air unnoticed. That is the extra compensation which residents can get if they move out before the deadline. Now there are rumours that this offer will be revised. Things just keep on changing. I am very much worried. I want to tell Secretary SUEN that he should not change all the pledges made when the Bill on the URA was deliberated in this Council previously. For if not, there will only be endless disputes and we will take to the streets with the stakeholders. So I hope very much that the Government can oversee the URA and the URA should not say that some thing cannot be done because its board of directors has said so. For in theory the board of directors is supervised by the Government and the board cannot just do things wilfully and change the pledges made by the Government.

Madam Deputy, I really hope that Mr SUEN can oversee the URA and make directions to it so that it will not get out of control. It should not let its

board of directors say this and that, for the board should listen to the Government. On that occasion, I asked Billy how he was appointed, for in the first place if the Government had not made all these pledges, there would never be the URA now and he would not be in this office. Madam Deputy, I was so furious at that time. So I hope Mr SUEN can oversee the URA, urge it to fulfil the pledges made in the past and not to dishonour all these pledges when tenancy control is lifted. This is what I wish to say.

Besides, there is one more point I wish to say. Madam Deputy, you may well remember that when we were deliberating on the bill related to the URA, things almost came to a standstill. When it came to discussions on the case of tenants, we found out that the exempted units available to tenants only amounted to 1 000 and they were provided by the Housing Society (HS). We said that the quantity was not enough. At that time, the Secretary for Housing, Mr Dominic WONG refused to provide more flats for such purpose. He said the flats from the HS would serve the purpose and there was no need for the Housing Authority to provide more flats. The Bills Committee of this Council did not agree to that and at last the matter was solved when the Chairman wrote a letter to Mr TUNG. In the end, the Government allotted an additional 1 000 flats for that purpose.

I would like to share the following with the Deputy President. Of the projects planned by the URA, 10 have been carried out with demolition taken place. The number is not large, though it cannot be said to be small either. But the flats made available are only some 60 and the number does not even reach 100. Obviously, some people are axing the number of flats available to the residents. For us, we have urged the Government with the best of intentions not to impose restrictions on the poor people. We tell the authorities that these people only wish to be housed in the public housing estates. There may be some cases where they may have just exceeded the limits a little bit, but they should be given allowance so that they can be rehoused in public rental units. Some may have an income a little bit higher than the income ceiling, but they should also be allowed to move into the public rental units. The same applies to those who have elderly persons in the family or if they are single persons. All these problems had been raised when we deliberated on the bill, but now there are people brandishing the knives and the residents are scared by the threats. So I think the Government must oversee the URA to examine if it has honoured the pledges made when the legislation was deliberated, that is, when the authorities promised that flats would be provided to the residents according to the

actual situation, instead of just providing some 60 flats, not even 100. This state of affairs is most regretful indeed.

Madam Deputy, I urge again that the Policy Bureau in the SAR Government responsible for housing affairs to fulfil its promise. The promise is that no persons in Hong Kong would be deprived of a dwelling place. The meaning of providing people with a dwelling place must take into account the working environment and the living conditions of the people. They must never be allowed to get into a situation where they find having a place to live is no better than having none. We all know that traffic expenses are exorbitant in Hong Kong. A round trip from Sham Shui Po to Tuen Mun will cost at least \$50. For the grassroots, every dollar counts. So I hope the Government will honour its pledges and prevent the appearance of a scenario where, after the deregulation of tenancy control, the grassroots will be at the mercy of all kinds of threats in the private sector market again. If in another market they can have the protection in the form of public housing, they will not be subject to threats of wilful increases in rentals. In this way checks and balance can be achieved.

In addition, I would like very much to see that Mr SUEN will respond to the views put forward by me just now. I wish to point out again that during the deliberations, there may well have been a lot of disputes. Some officials were willing to listen to us, like Stephen FISHER who discussed with the residents personally. I think that is good. However, discussions are only discussions and what matters is that the residents are really given help. I really hope that Mr SUEN can offer us some advice on how the grassroots can be assisted in renting flats subsequent to the lift of tenancy control. Thank you, Madam Deputy.

MR IP KWOK-HIM (in Cantonese): Madam Deputy, the original intent of the Bill proposed by the Government is rather straightforward. The purpose is to minimize intervention, so as to allow the rental market to operate freely. Under the existing legislation, landlords can repossess their property only on grounds of redevelopment or self-occupation. According to the Bill proposed by the Government, in future, the abovementioned restrictions will be removed upon the enactment of the legislation, thus enabling landlords and tenants to negotiate new tenancies on an equal footing, such that landlords may refuse the tenancy renewal. We think it will bring positive impact on the rental market, giving owners a greater decision-making right on the one hand, while encouraging members of the public to let out their properties more at ease on the other.

In fact, in considering whether or not to support the Bill, the Democratic Alliance for Betterment of Hong Kong (DAB) thinks that both the interests of the small landlords and tenants should be fully looked after. Regarding tenants, we believe that they can now find it easier to find accommodation in the prevailing market. They should not encounter much difficulty at present. From the information provided by the Rating and Valuation Department, as at the end of 2003, private residential units amounted to 1 million, and the number of vacant units with usable area smaller than 40 sq m (around 400 sq ft) was over 15 000, representing 4.5% of the total gross floor area stock. In addition, among those flats with a rental of \$5,000 per month, the tenancy term of close to 90% did not go beyond four years. Among these, about 70% maintained a tenancy term of only two years or even shorter.

From the above information, we can see that the supply in the private market seems to be comparatively adequate. If we take our eyes off the factor of adequacy of flats supply and focus only on the rental, we can see that the rental is obviously falling. The average annual rental index in March this year, that is, 2004, for example, has dropped more than 46% compared to the peak period in October 1997. Given all these objective factors, the issue of retaining protection on security of tenure or otherwise has aroused extensively discussion in the community.

The DAB conducted a rental survey last year. Among the 667 respondents, 54% supported a total removal of rent control. Once the restrictions on security of tenure are lifted by the Government, according to our findings, 57% of the respondents indicated that they would or might considering purchasing properties for rental purposes.

Based on an analysis of both the subjective and objective factors, the DAB considers it timely to remove the restrictions on security of tenure. While we can see that there is a sufficient supply of flats in the market, we also have to take into account landlords' disposal of their property. As such, the DAB supports the proposal of removing the provisions on rent control. The Government is also going to move an amendment to introduce a transitional arrangement for the issuance of a transitional termination notice. After the legislation has come into force, a landlord must serve a termination notice on his tenant no less than 12 months before his intended termination date. I believe that tenants are given enough time to find alternative dwelling in a year's time under this arrangement.

Another concern of the Bill is the issue of residents in redevelopment areas. A number of Members have mentioned this point earlier in the debate. Initially, the Government intended to remove the existing provisions for payment of statutory compensation by the Urban Renewal Authority (URA) or the former Land Development Corporation upon the enactment of the Bill. We expressed grave concern about this. These residents in redevelopment areas have been waiting a very long time for the redevelopment to take place and the compensation. If the original arrangement were cancelled, it would be grossly unfair. We felt therefore very concerned and made repeated requests at the meetings, urging the URA to retain the existing compensation formula in calculating *ex gratia* compensation for tenants affected by 20 projects announced for redevelopment, that is, the formula of "7-5-3-1".

With our concerted efforts, as Members mentioned just now, the URA finally accepted the views expressed by Members and the affected tenants, so that their legitimate expectation did not go down the drain. As for their requests in respect of removal compensation, these are issues that warrant further study in future.

All in all, we should balance the interests of landlords and tenants. We also note that some landlords in the old urban areas are making ends meet with the rental income. The proposal in question only provides them with another option and it does not mean that they must exercise their right to terminate the tenancy with their tenants. For those underprivileged tenants living in the old urban areas, we also strongly urge the Government to take care of their housing needs as soon as possible and not to drive them into a corner with the passage of the Bill. We believe it is the responsibility of the SAR Government. Also, I hope that Secretary, Michael SUEN can closely monitor the situation, so as to accord protection to the housing right of the disadvantaged groups.

With these remarks, I support the Second Reading of the Bill. Thank you, Madam Deputy.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I opine that the right to housing, being a basic right, is fundamental to people's life. In particular, for the grassroots with comparatively weak bargaining power, we have been working hard for years to ensure that they enjoy the basic and

reasonable right to housing. As regards the Bill proposed by the Government today and the amendments proposed by the Democratic Party and the Liberal Party, the ADPL and I will, in deciding our voting preference, consider the principle of preserving the basic right to housing for the lower strata of society.

According to the information provided by the authorities, the Bill seeks to amend, in view of changes in the property market, the security of tenure provisions which are no longer consistent with the times. Under the existing legislation, if a tenant wishes to renew the tenancy and is willing to pay the prevailing market rent — I reiterate that the tenant is willing to pay the prevailing market rent — the landlord will have no alternative but to agree to the tenancy renewal. Only on certain statutory grounds stipulated in the legislation, such as default of rent payment by tenant or redevelopment programme by the Government or repossession by the landlord for self-occupation, can the landlord refuse to renew the tenancy. The ADPL and I opine that the current provisions can increase the bargaining power of tenants with low financial capacity in tenancy renewal. The current provisions do more good than harm to the low- and middle-income groups.

However, we are disappointed that the Administration now hopes to remove the relevant restrictions on two grounds, enabling landlords to repossess their properties upon expiry of the tenancies even if the tenants are willing to pay the prevailing market rent. According to the Government, these restrictions deter property investors and impede free operation of the private property market. In other words, the Government wishes to stimulate the property market so as to expedite its attempt to prop up the market. The other reason advanced by the Government for the amendment is the overbearing behavior of rogue tenants in recent years. They default rent payment on various excuses. By the time the landlords have reached the limit of their patience and brought the case to court, the rogue tenants will sabotage the premises and disappear without a trace, causing losses to the innocent landlords.

Regarding these two reasons, I believe nobody will accept certain behaviour of these so-called rogue tenants. I think no one will oppose adopting even more stringent measures to deal with, address and prevent the problem of rogue tenants. It deserves our support because such acts are unreasonable and even illegal. However, the introduction of security of tenure provisions was tantamount to the Government shifting onto landlords a responsibility which it has been reluctant to assume over the past 20-odd years. The complete removal

of security of tenure provisions now is a 180-degree change after the landlords have shouldered the responsibility for some 20 years. Is such a drastic change appropriate? Is it really true that, like the Government has said, it can handle these problems and tenants under the protection of law will continue to be protected in the same way under other government policies should such problems arise? As we are in a free market, I agree that landlords should ultimately (I said "ultimately", like the Basic Law says that there will ultimately be elections by universal suffrage) and ultimately enjoy the right to choose their tenants. But are the conditions in society ripe for this? I will put forth my analysis later. Having said that, I think any immediate removal of such protection in one go with the provision of only a 12-month buffer period is not viable.

Perhaps some people may query whether it is raising alarmist talk in saying that the removal of security of tenure will adversely affect the grassroots in society. They simply do not think the situation will become so serious. The ADPL and I have met with some residents from the old districts. The residents shared their experience with us and told us that in their own case, removing the existing security of tenure was no different from putting them on the chopping board, resulting in a total loss of bargaining power. Some residents even said that it would become more and more difficult for them by then to continue to reside in the same district in a dwelling of the same standard at a reasonable rent. First of all, the problem starts with payment of deposits. Finding a new place for each removal, they normally have to pay a different rent, probably a higher rent. In addition to paying one month's rent, they have to pay one month's rent "in advance" as deposit, meaning that they have to spend more money. Secondly, renting a flat or room similar in standard to their current dwelling in the same district will become more and more difficult. For example, in areas like Sham Shui Po, Tai Kok Tsui, old Hung Hom District and even Western District as well as old Tsuen Wan District, many low-income families are living in flats partitioned into three or four rooms for lease. Take Sham Shui Po as an example, after years of clearance and redevelopment by the Government, many such old flats have already been demolished and the remaining number of such flats is decreasing. Although many Members said that the prevailing rent has gone down by 46% and even by 50% in some districts, I have to tell them that, the rent differences between cubicles and bedspace apartments in Sham Shui Po in recent years have not been more than 20%, implying that the rent is on the high side. There may be a 50% decrease in rent for a residential unit of 500 sq ft or 1 000 sq ft, but this situation does not exist in Sham Shui Po. In other words, the rent for these units has become more and more expensive instead of

getting increasingly cheaper because the remaining supply is shrinking as more and more buildings are demolished.

On the other hand, some people said, "Why not apply for public rental housing (PRH)?" At present, PRH in the urban areas is not open to the Waiting List (WL), meaning that people cannot apply for PRH in the urban areas. The rules changed last month regarding the application for PRH in the urban areas. Prior to 31 March 1999, applications for PRH in the urban areas were not entertained. The rules have changed since May (last month) so that applications submitted before 1 July 2002 will be eligible for PRH in the urban areas. But applicants who came onto the WL after 1 July will not be eligible for PRH in urban areas. If the applicants insist on waiting for PRH in the urban areas, they may have to wait at least five to six years. In other words, if I am an elderly person, single-parent family member, new arrival or person with limited income living in the abovementioned districts who has to look for a flat in the same district upon tenancy expiry, will the Government offer any assistance to me? According to the relevant legislation, a landlord shall not provide assistance and the landlord probably will not. Does the Government have any new legislation concerning housing, any new housing policy or new policy on PRH which can offer assistance? Or will the Government consider lifting all the restrictions on the WL? The Government should not have stipulated that only those applications submitted before 1 July 2002 would be eligible for PRH in the urban areas. It clearly reflects that the prevailing public housing policy cannot cope with the problems which will be encountered by low-income families as a result of the lifting of the existing security of tenure provisions.

I agree that protection of tenants should not be the responsibility of the small landlords, but the phenomenon has been there for two decades. It is the Government's fault for allowing such a situation to exist for 20 years. In the past, the Government shirked its responsibility at one stroke to the landlords. Now, it is poised to leave the affected tenants to their own fate. Both approaches are erroneous. Two wrongs do not make a right. If the Government, in dealing with this problem, cannot provide an alternative to protect the rights of those I have just mentioned, I may find it very difficult to support the Government's amendments.

Of course, we are still faced with the problem of redevelopment, that is, the demolition and redevelopment by property developers and the Urban Renewal Authority (URA). If the Bill is passed, the compensation for the

affected tenants will no longer be calculated in accordance with the mechanism pegged with the rateable value. Although the URA said that it would offer compensation based on the usual practice for the 20 projects, what is the case with the compensation for the 21st project and thereafter? I believe compensation will not be made in this way again. What is the case with the redevelopment projects by private developers? I believe there will be no compensation. What about the rehousing issue? The answer is unknown. In other words, the Bill has opened Pandora's box, a box of questions without answers. If I support the Bill, I should also support the solutions proposed by the Government for these potential problems. If the Government does not have any solutions, we should not give up the security of tenure provisions in an across-the-board manner. Therefore, from this perspective, Madam Deputy, I cannot accept the amendments proposed by the Government.

As for the amendment proposed by the Democratic Party, it is actually an attempt to draw a line with the monthly rent of \$5,000 being the threshold so that tenants paying a monthly rent of \$5,000 or below are still protected by the security of tenure provisions while the protection for tenants paying a month rent of over \$5,000 will be removed. In my opinion, it can be said that the problem is cut into two halves. On the one half is the kind of flats at a monthly rent of over \$5,000 rented by high-income tenants who can afford to occupy the whole flat. But they are not the kind of tenants I referred to earlier. I think this is still acceptable because I believe they have a better bargaining power or a greater ability in looking for dwellings. If I accept the viewpoints of the Democratic Party, I should also accept that the final question is not concerned about the responsibility or commitment of the landlords. However, I think the Government should understand that the sudden and complete removal of protection will give rise to some other problems. It is not feasible if the Government tries to ignore them. In my opinion, the Democratic Party's amendment has at least provided a ladder or a stratum, enabling us to handle one group of people this time and the other group of people on the next occasion. The next occasion can be one, two or three years later. The Government can then relax restrictions on residential units at a rent below \$5,000 after having devised another method, or formulated a new policy or legislation.

As for the amendment proposed by the Liberal Party to set the threshold at \$3,000 and extend the notice period to three years, I find it unacceptable because, in principle, it has adopted the Government's proposal on a complete removal of the security of tenure. It has neither responded to a series of clearance,

redevelopment and rehousing problems faced by those affected residents of old buildings in the urban areas.

Madam Deputy, I have to raise another point. I think the Government was trying to resort to using open statements as a means of persuasion a few days ago. The Government advised Members not to support the amendments proposed by the two Parties because the tenants would, otherwise, suffer the most as the notice period would be as short as one month once the Bill was passed. I think that the Government has only told half of the truth. As a matter of fact, the amendment concerning the one-month notice proposed by the Government is merely an amendment which we can oppose. In other words, if the amendment of the Liberal Party or the Democratic Party is passed, there will not be any provisions initially proposed by the Government. Of course, if the amendment proposed by the Government is not passed, and we take one step further to reject the Government's original Bill, then the amendment concerning the one-month notice proposed by the Government will simply become non-existent. Everything will go back to the existing legislation as it is. So, basically there is no problem.

Madam Deputy, based on the above standpoints and in view of the situation already created by the Government during the past two decades, the Government should not and cannot remove the security of tenure in an across-the-board manner. So, I cannot accept this Bill and will vote against the Second and Third Readings of the Bill.

MS EMILY LAU (in Cantonese): Madam Deputy, I rise to speak in support of the Second Reading of the Landlord and Tenant (Consolidation) (Amendment) Bill 2003.

Madam Deputy, I was not a member of the Bills Committee. Generally speaking, I seldom speak on Bills I have not scrutinized as a member of the Bills Committees. So, why am I speaking on this occasion? First, because of the controversial nature of the Bill; second, because of the large number of landlords and tenants (particularly tenants) who have approached me over the past month or so. Though I explained to them that I was not a member of the Bills Committee, I told them that I would still listen to their views. I have also held a number of meetings with them on the second floor of this building.

The first one who approached me was Mr Albert HO, who indicated to me his intention to propose an amendment. Given that I was not a member of the Bills Committee, the staff from the Housing, Planning and Lands Bureau and the Urban Renewal Authority (URA) were invited to join me in the discussion. They were invited by me again when I was approached by landlords and tenants later. As such, the staff from the Bureau and the URA have come here at least three times. I would like to thank them here for their participation in meetings with us outside this Council. I see that scores of tenants are now sitting in the public gallery. Following the meetings with them upstairs, I have held a series of meetings with the Government too. There were also meetings among members of the Frontier after listening to the views from various sides and repeated discussions. Madam Deputy, the upholding of a free market is the utmost concern to the Frontier. It can even be said that we are more concerned about taking care of the disadvantaged. The Frontier is gravely concerned because the crux of the Bill involves these two issues. Why has it been necessary for meetings to be held by the Executive Committee to be widened on every occasion? This is because many members and friends have come to join us in our discussion. I will report the situation to them on every occasion. Madam Deputy, I will endeavour to make the Frontier keep abreast of items the Liberal Party, to which you belong, has decided to amend or not to amend.

(THE PRESIDENT resumed the Chair)

Madam President, the Frontier will eventually agree to the abolition of security of tenure, because we feel that small landlords should not be made to shoulder the responsibility of protecting the grassroots and the disadvantaged (as pointed out by a number of colleagues earlier). Moreover, I believe even Mr Albert HO, whom I highly respect, and Mr LEUNG Yiu-chung, whom I highly respect too, will not deny that some landlords (I am referring to those very small landlords) are members of the disadvantaged too. My office has received complaints from these landlords over the past couple of years. I do agree with Mr HO that the problem arising from "rouge tenants" cannot be fully tackled by this Bill alone. I also very much agree with the personal views expressed by Ms Audrey EU, Chairman of the Bills Committee, earlier in the debate. I am not going to repeat much of what she said. I think this is what should be done at the moment because, first, rent levels have fallen; second, there is no problem with supply of housing. This explains why I asked some residents in the

neighbourhood (I asked them this question though some of them might not like to hear it) whether they would be willing to consider alternative housing should it be made available to them at an inexpensive rate. Of course, as remarked by some colleagues earlier, some residents dislike the idea of moving to faraway places for fear that their ties with their original community will thus be severed. This is understandable. Madam President, I have personally indicated my wish to Mr TAM Wing-pong of the Housing, Planning and Lands Bureau and members of the URA in the couple of meetings held with them that they should give the residents peace of mind by making their best efforts in looking after their interest. I believe the Bureau (I hope the Bureau Director will explain clearly to us in a while) will strive to look after their interest, for this is what the Administration is obliged to do.

We figured out from some of the information collected at that time or thereafter that the matter would be pursued from several aspects. I guess it is needless to mention the URA, for this point has been raised by a colleague earlier. Even Mr Albert HO agreed that the idea was quite good. However, according to Miss CHAN Yuen-han, there has delay on some pledges. If this is true, the Secretary cannot shirk his responsibility. It is therefore necessary for the Secretary to sort out whether there has been any delay. But what can be done to help the other people? The Hong Kong Housing Authority will definitely be responsible for providing housing to eligible applicants with housing problems. What can be done as there have been complaints from tenants that they are on the Waiting List and yet they are now being forced to remove from their dwellings? There have been pledges that the relevant cases will be examined to determine if it is possible to shorten the waiting period for public housing, particularly for applicants who have almost reached their turn for allocation or are just one year or so before reaching their turn. We have been told that the matter would be examined, though there is no guarantee that housing will be provided. Yet, the matter would surely be examined. Insofar as applicants on the Waiting List and are now forced to move somewhere else are concerned, the authorities should simply consider allocating public housing to them so that they can surrender their flats sooner.

According to the authorities, arrangements can be made to provide other tenants with temporary shelter. As for those who are also eligible for public housing, interim housing will be provided instead. However, Madam President, the conditions of the temporary shelter are really deplorable. Those tenants should not be made to live in such terrible conditions. We have been told that

66 family services centres, the Social Welfare Department (SWD) and other non-governmental organizations (NGOs) are there to offer assistance to the tenants. I believe it is now time to put words into actions, particularly as we can confirm that the residents are truly in difficulty. Moreover, the number of the disadvantaged households is small. I find it necessary for the Secretary to undertake on behalf of the Bureau to offer assistance to these families. I told the residents in the neighbourhood in front of all officials attending the meeting that they were free to approach me should any problems be encountered. I do not know whether I will still be here in this Council in September, or October. Wherever I will be, Madam President, I will strive to help the residents. What is more, I hope the pledge made to me at that time can be fulfilled today.

Furthermore, when it comes to the capability of the SWD and NGOs to help the tenants, what assistance should we expect? The SWD can help the needy apply for compassionate rehousing. Qualified tenants can surely apply for institutional care. I also hope that assistance can be offered to tenants who are required to wait. Furthermore, we have been told that more than 10 000 flats not larger than 40 sq m are available. I hope the rents charged are not very expensive. As the number of such premises is thought to be large in the Administration's view, in what way will assistance be provided? I think the authorities can offer help by keeping the relevant residents informed of street posters on suitable accommodation, newspaper advertisements and information provided by real estate agents, mainly for the purpose of helping them to look for suitable accommodation in the districts in which they are currently residing.

If necessary, case officers will accompany the relevant tenants to look for suitable premises everywhere. Although the Secretary represents the Housing, Planning and Lands Bureau, I hope he can undertake on behalf of the SWD that this will be done. I believe even if the authorities pledge that this will be done, tenants sitting up there might still feel not assured. There might still be something considered by them not satisfactory. But still, I hope the authorities can make their best efforts in helping the tenants as promised.

Furthermore, the SWD can consider making grants from trust funds to help evicted tenants pay for the deposit required for renting premises and other removal expenses. I hope this can be done. There are also suggestions that counselling services can be provided to relieve the sense of insecurity felt by tenants on eviction. Insofar as the present situation is concerned, Madam

President, I do understand that we are in a dilemma. This is particularly so as we are directly elected Members. No matter whether there are such tenants in our constituencies, we have to look at the Bill from the perspective of Hong Kong as a whole and the general situation. I understand that I cannot please everyone no matter how I am going to vote. Nevertheless, we have no fear. We will not only act out of our conscience, but also say what is in our mind clearly. All voters, whether they be landlords or tenants, will have the opportunities to respond to us on 12 September.

As such, I hope to make clear the position of the Frontier. We feel that the spirit of the Bill is worth supporting. By removing restrictions on security of tenure, we hope to revitalize the free market and thereby release more premises to achieve this specific purpose. The authorities should assume the responsibility of helping people who truly need help (such people do exist). Whether Secretary Michael SUEN likes it or not, Madam President, he should shoulder this responsibility. He is representing the authorities in this debate on the Bill today. There is simply no way that he can dodge or evade his responsibility. I am not the only one who says something like this. Actually, many colleagues have made similar remarks too. Madam President, I truly hope we can have peace of mind in lending our support. I do hope Secretary Michael SUEN can fully respond to our concern when he delivers his speech. Although the Secretary might not be able to satisfy all tenants, I still hope that he can give us a clear response to most of the problems confronting the tenants.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I would call upon the Secretary for Housing, Planning and Lands to reply.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I wish to take this opportunity to express my thanks to Ms

Audrey EU, Chairman of the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2003, and all its members for providing so much valuable advice during the scrutiny of the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 (the Bill). At the Committee stage later on at this meeting, I shall move a series of amendments, which have all been proposed after taking on board suggestions of the Bills Committee.

As pointed out in the Government's housing policy statement released in November 2002, it is necessary for us to conduct a comprehensive review on the security of tenure for domestic tenancies under the Landlord and Tenant (Consolidation) Ordinance. The main objective of the Bill is precisely to remove the security of tenure restrictions for domestic tenancies under Part IV of the Ordinance, with a view to reducing government intervention in the private rental market, restoring its free operation and striking a more appropriate balance between the interests of landlords and those of tenants.

As mentioned by many Members, the security of tenure for domestic tenancies was introduced in 1981. There was at the time a serious shortfall of domestic accommodation, so the bargaining power of tenants was low, leading to significant rental increases by landlords upon renewal of tenancies. The Government thus introduced the security of tenure for domestic tenancies to protect tenants' interests. Under the security of tenure restrictions, unless the landlord can put forward some special grounds such as self-occupation or redevelopment of premises, he cannot refuse to renew the tenancy if the tenant is willing to pay the prevailing market rent. Circumstances have changed, and market conditions have significantly improved. There has been an abundant supply of rental accommodation in recent years, leading to a drastic drop in rentals and a much stronger bargaining power of tenants. The situation as such, the security of tenure restrictions have not only become outdated, but also posed huge interference in the property market, discouraging property investors from leasing their residential properties and buying new properties, thus impeding the free operation of the private property market. For all these reasons, and following extensive public consultations, we introduced this Bill to remove the security of tenure for domestic tenancies.

Another object of the Bill is to remove the minimum notice requirement for terminating non-domestic tenancies. Currently, for a tenancy to end upon expiry, a notice of termination must be served by the landlord on the tenant no less than six months, or by the tenant on the landlord no less than one month,

before the date of expiry. This requirement restricts the freedom of landlords and tenants in negotiating the notice period. We therefore propose to remove such an intervention, so that landlords and tenants can negotiate mutually acceptable notice periods under the spirit of contract.

As pointed out earlier by Bills Committee Chairman Ms Audrey EU in her report, during the discussions on the removal of security of tenure, members expressed the concern that tenants may make use of the existing tenancy renewal mechanism and submit applications to the Lands Tribunal for tenancy renewal before the Amendment Ordinance comes into force. This can drastically increase the workload of the Lands Tribunal, thereby prolonging the current lead time for processing applications.

To address this potential problem, and also to ensure that all tenants of existing tenancies can adapt to the change, we propose to introduce a transitional arrangement. Under this arrangement, even after the coming into force of the Amendment Ordinance which removes the security of tenure, all landlords of existing tenancies must serve a transitional termination notice on their tenants no less than 12 months before the intended termination dates if they wish to terminate the tenancies concerned after the original terms of tenancies have expired. This transitional arrangement will ensure that after the removal of security of tenure, existing tenants will have at least 12 months to stay in their rental accommodation, thus reducing the need for tenants to rush in applications to the Lands Tribunal for a new tenancy before the Amendment Ordinance comes into force. This will also give tenants having to move out enough time to make alternative accommodation arrangements. At the Committee stage later on at this meeting, I shall move an amendment to add this transitional arrangement, which is supported by the Bills Committee.

The Bills Committee has also expressed concern about whether or not there is room for further streamlining the repossession process following the removal of security of tenure. Following the removal of security of tenure, if the landlord wishes to repossess the property, the tenant should have no reason not to move out. We have sought the advice of the Judiciary and the departments concerned on this point, and after studies, it is unanimously agreed that it is possible to reduce the statutory "opposition period" for the tenant to file an opposition to the landlord's application for repossession. This proposal will expedite the repossession process after the expiry of tenancy. I shall move the relevant amendment at the Committee stage.

Another concern of the Bills Committee is the compensation for tenants affected by redevelopment. Many Members have also raised this problem. The existing mechanism on the payment of statutory redevelopment compensation is founded on the security of tenure enjoyed by tenants under the law. Once the security of tenure is removed, statutory redevelopment compensation should also be removed accordingly. As a result, the *ex gratia* allowance for domestic tenants affected by the redevelopment projects of the Urban Renewal Authority (URA) has become another focal concern in the deliberations of the Bills Committee.

I wish to explain that the URA is an autonomous statutory body, and its Board will from time to time formulate policies on the payment of compensation. In regard to the 25 projects announced by the former Land Development Corporation (LDC) in 1998, the URA has already launched 17 of them. All eligible domestic tenants will be offered rehousing or statutory compensation under the Landlord and Tenant (Consolidation) Ordinance. As for the remaining eight projects, I am pleased to inform Members that the URA has consented to adopt administrative measures to offer rehousing or *ex gratia* allowance to the eligible domestic tenants affected by its redevelopment projects. And, the amount of the *ex gratia* allowance will also be determined in accordance with the compensation formula set out in the Landlord and Tenant (Consolidation) Ordinance before amendment. In addition, the URA has also agreed to retain the minimum payments currently payable under its policy, namely, \$70,000 for a one-person household and \$80,000 for a household of two or more persons.

In regard to Members' request that the URA should accord priority to the urban renewal projects left over by the former LDC, the URA has replied that these projects have been incorporated into its latest, that is, its third, approved five-year Corporate Plan. The Chief Executive has in fact pointed out in his policy address this year that the urban renewal process includes redevelopment, rehabilitation, revitalization and preservation, announcing that the Government will consider the idea of accelerating urban renewal and fostering extensive discussions among all social sectors. We will thus conduct a full-scale review of our urban renewal policy, covering the strategy concerned, and we will also reconsider the relative weighting and pace of different urban renewal projects.

With respect to Members' suggestion on the provision of *ex gratia* allowance and rehousing arrangements for the domestic tenants affected by the

outstanding LDC projects, as I have pointed out, the URA is an autonomous statutory body, and its Board is empowered to set and adjust the relevant policies. We believe that the URA will adhere to the people-oriented principle and take account of the circumstances of individual projects in determining the provision of *ex gratia* allowance and rehousing. In the process, we will exert our utmost to request the URA to consider people's demands as much as possible.

As for the Committee stage amendments proposed by several Members, the Government is firmly opposed to them.

Mr Albert HO suggests that all tenancies in respect of properties each with a rateable value of \$60,000, that is, a monthly rental of about \$5,000, should continue to be subject to security of tenure provisions. This amendment will effectively exclude roughly half of the landlords and tenants in the domestic rental market from the ambit of the Bill. It will therefore utterly defeat the Government's original intent of restoring the free operation of the rental market as a whole. More importantly, the proposal is extremely unfair to landlords whose properties are below a certain level in monthly rentals, because they will continue to be restricted by security of tenure provisions and thus cannot choose to repossess their properties upon tenancy expiry.

Mr Howard YOUNG proposes to alter the transitional arrangement proposed by us, requiring the serving of transitional termination notices by landlords on tenants no less than three years before tenancy expiry in cases of rental properties each with a rateable value of \$36,000 or a monthly rental of \$3,000. Mr YOUNG hopes to ensure that the tenants concerned can continue to enjoy security of tenure for at least three more years after the removal of security of tenure. We are of the view that this proposal is similarly unfair to landlords of properties of low rateable value. And, the three-year notice period is also too long. We therefore do not support this amendment.

I now wish to talk about the expressions used in a letter referred to by Mr James TIEN. I have listened to Mr James TIEN's remarks earlier, and in retrospect, I agree that the expression "a bad law" used in the letter is unfriendly and rude. But I hope Members can remember that the proposed amendment of Mr James TIEN as mentioned in our letter is not the same as that put forward by Mr Howard YOUNG today. The two proposals are different. Unlike the amendment put forward today, which proposes to extend the notice period, the proposed amendment of Mr James TIEN as mentioned in my letter seeks to defer

the commencement of the Bill for all affected parties for a period of three years. Therefore, I wish to put down on record that the two proposals are different. We are talking about two different proposals. But this does not affect the truth of my comment that the expression concerned is both unfriendly and rude.

As for other proposals, I shall explain the position of the Government and its reasons for opposition in the debate to follow.

I now wish to say a few words on the concern about poorer tenants, an issue that has been discussed in some detail by Members earlier. I can appreciate Members' concern about the effects of the Bill on certain tenants. Their concern is understandable. Ms Audrey EU, Miss CHAN Yuen-han and Ms Emily LAU have separately expressed in detail their concerns in this respect. We do realize that the Bill may create difficulties for some poorer tenants, and we do share the concerns expressed. But I also wish to stress that the policy of the Hong Kong Government is to provide society with a safety net, and as pointed out by Members, there are a variety of ways to look after those in need. Having said that, I must of course add that it is indeed a matter of opinion as to whether or not the ways available are the most appropriate in the eyes of residents and whether or not these ways are acceptable to them at all. The reason is that, in many cases, we are in fact bound by many constraints. One example is the lack of public housing units in the urban areas to cater for the demands arising from the URA's urban renewal projects. On Hong Kong Island, for example, it is true that there is still a very small number of public housing units, but very soon, after their completion and occupation, no public housing units will be left. Therefore, I hope Members can appreciate that although we will definitely do our best to provide assistance, we may not necessarily be able to cater for all the relevant demands of residents.

In regard to the safety net, the Housing Authority (HA) also plays an active role. As for the Social Welfare Department (SWD), to which Ms Emily LAU has repeatedly referred, I must say that although it is outside my portfolio, I nonetheless still wish to express my concern. I will definitely liaise with the SWD and hold discussions with it on the various demands and questions raised by the affected residents. However, it will be most inappropriate of me to make any light promises here. What I can do here is to make a solemn undertaking that the Government will seek to provide housing assistance to those in need through the HA, the SWD and non-governmental organizations. We will also

provide assistance to individual tenants in difficulties, including marginalized tenants, so as to ensure that they will not be rendered homeless by their landlords' repossession of properties.

In regard to specific measures, Members hope that I can supply more details. But I hope Members can understand that as far as these measures are concerned, all must depend on the locations of the affected tenants' residences, the quantities of available housing units and what forms of assistance are possible. For this reason, I cannot make any sweeping statements on the kinds of assistance that can be offered. But I can promise that once these problems actually emerge, we will definitely try to work out some concrete assistance measures in the light of the circumstances. I hope Members can appreciate that we do have a very good record in this respect; we have never allowed anyone to become homeless.

There is one thing I can talk about more concretely, though. This concerns what some Members have talked about — those families that are already on the Waiting List for public housing. This is a matter within my portfolio, and we will actively consider the idea of expediting the allocation of public housing to those families which are denied tenancy renewal following the removal of security of tenure, and which are already on the Waiting List. We will handle the applications of these families very prudently according to the relevant procedures of the HA. I hope Members can understand that I cannot make any definite undertaking here because the handling of applications must follow established procedures. But I can state here that when such cases arise, the HA will handle them appropriately.

Lastly, I sincerely hope that Members can support the Bill and the Committee stage amendments to be moved by the Government.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Landlord and tenant (Consolidation) (Amendment) 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.

(Members raised their hands)

Mr Frederick FUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Frederick FUNG has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Ms Cyd HO, Mr Albert HO, Dr Raymond HO, Dr Eric LI, Mr Fred LI, Mr NG Leung-sing, Miss Margaret NG, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Dr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr WONG Sing-chi, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the motion.

Mr LEUNG Yiu-chung and Mr Frederick FUNG voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that there were 50 Members present, 47 were in favour of the motion and two against it. Since the question was agreed by a

majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Landlord and Tenant (Consolidation) (Amendment) Bill 2003.

Council went into Committee

Committee Stage

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

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 2003

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Landlord and Tenant (Consolidation) (Amendment) Bill 2003.

CLERK (in Cantonese): Clauses 4, 6, 8 to 13 and 15.

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, 2, 7 and 14.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I move the amendments to clauses 1, 2 and 7 and the deletion of clause 14 as printed on the paper circularized to Members.

The amendments have been scrutinized and endorsed by the Bills Committee. They seek to set the commencement date of the Bill on the day it is published in the Gazette. We initially proposed that the Bill should come into effect on a day to be appointed by the Secretary for Housing, Planning and Lands, and the intention of this was to appoint a day two months following the passage of the Bill, so as to give a grace period during which both landlords and tenants could make appropriate preparations. However, since we have introduced a transitional arrangement, there is no longer a need for any grace period. We now propose that the Bill shall come into effect on the day it is published in the Gazette, instead of any other appointed day. As a result, we propose to amend clauses 1, 2 and 7 of the Bill and delete the appointed day and its definition and substitute with the commencement date. As for the deletion of clause 14, it is purely a technical amendment. Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex I)

Clause 2 (see Annex I)

Clause 7 (see Annex I)

Clause 14 (see Annex I)

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 amendments passed.

CHAIRMAN (in Cantonese): As the amendment to clause 14, which deals with deletion, has been passed, clause 14 is deleted from the Bill.

CLERK (in Cantonese): Clauses 1, 2 and 7 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): Clause 3.

MR ALBERT HO (in Cantonese): Madam Chairman, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) thereof be suspended in order that this Committee may consider new clause 3A ahead of clause 5, as it is related to clause 3.

CHAIRMAN (in Cantonese): As only the President may give consent for a motion to be moved to suspend the Rules of Procedure, I order that Council do now resume.

Council then resumed.

PRESIDENT (in Cantonese): Mr Albert HO, you have my consent.

MR ALBERT HO (in Cantonese): Madam President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider new clause 3A ahead of clause 5, as it is related to clause 3.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider new clause 3A ahead of clause 5, as it is related to clause 3.

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 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.

Council went into Committee.

COMMITTEE STAGE

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

CLERK (in Cantonese): New clause 3A Tenancies not affected by repeal.

MR ALBERT HO (in Cantonese): Madam Chairman, I move that new clause 3A be read the Second time.

Madam Chairman, the aim of clause 3A is to limit the coverage of the whole Bill to dwellings with an annual rateable value above \$60,000. In other words, my amendment will exclude tenements with an annual rental below \$60,000 from the coverage of the legislation.

Madam Chairman, if my amendment is passed, the resultant effect will be that 120 000 households will continue to enjoy the security of tenure. As I said in the resumption of Second Reading, in putting forward this proposal, my intention is not to freeze the security of tenure at such a level permanently, rather, I hope that a review can be conducted two or three years later to examine the effects that the passage of this Bill has on society as a whole, before deciding whether to deregulate further and what the extent of deregulation should be.

The Secretary has referred to his earlier comments that should Mr James TIEN's amendment be passed, this piece of legislation would be a bad one. However, he admitted later in his speech that his comments were unfriendly and rude. However, in his reference to my amendments, he said that if my amendments were passed, the consequences would be extremely unfair. I think his remarks are also quite unfriendly and even rather rash. *(Laughter)* Why? It seems his assumption is that the security of tenure is either 100% or 0% and there is not any ground in between. On this score, he is wrong again because when the security of tenure was introduced in 1981, it was in fact an extension. In 1981, some of the buildings with lower rateable values had in fact already been covered by the security of tenure, that is, by Part II of the Landlord and Tenant (Consolidation) Ordinance. Part II was related to buildings with a lower rateable value, which had all along been covered by the security of tenure. In 1981, with the instability in the rental market, the security of tenure was extended to cover Part IV so that the protection could become all-embracing.

Therefore, it can be seen that for some time, there were two types of protection. In that case, was it very unfair at that time? Had it always been very unfair? In fact, Madam Chairman, the security of tenure has existed not just for 20 years. At least, some buildings have been protected for several decades, not to mention the pre-war buildings referred to in Part I, since those buildings have been covered by the security of tenure for an even longer period of time. In fact, the Government has been effecting protection in a piecemeal manner for a long time. If we are told today that to remove the security of tenure by stages is unfair, then I am sorry to say that this is an extremely rash judgement. In fact, it does not matter if one is being unfriendly, however, one must in no way make any mistake.

Furthermore, I do not wish to go over this point again but only want to simply say that if the security of tenure is retained, landlords do not have to, as some people claim, subsidize tenants because they are still charging market rent, which is determined by the Court. If the landlord himself or his immediate family members want to live in the property concerned, he can repossess it. The Government said that landlords are now bearing social responsibilities. As the Secretary has said, if this Bill is passed, it must also be admitted that tenants with less means will face greater difficulties, even though they will not be rendered homeless. In other words, if the whole Bill is passed, it will create greater difficulties for low-income families. However, the Government said that a safety net has been put in place, so we should no longer make minor landlords shoulder the responsibilities.

Madam Chairman, by moving the amendment now, I precisely want to tell the Government that I consider this safety net neither adequate nor effective. No matter how much the Government dwells on this, I do not want to discuss in detail how inadequate the Government's safety net is. However, there is at least one point which was raised many times during meetings, that is, if the income requirements for moving into public housing cannot be met, then such a recourse is out of the question. Even though the Urban Renewal Authority has made a proposal to the Government, in view of the 2 000 flats at its disposal, to allow it to handle cases with flexibility and without taking into consideration the income limit, the Housing Authority has objected to it and insisted on consistency. Therefore, the income limit itself is already a kind of restriction. The Secretary must also note that the income limit has been adjusted downwards consecutively in the last two years on the ground of deflation. We felt that the original starting point was in fact already on the low side and it has been even

further adjusted downwards for two consecutive years. In dealing with the cases of grass-roots people, we learned that many of them could not move into public housing because their income had exceeded or was just above the income limit, however, their circumstances were in fact quite straitened.

Madam Chairman, I certainly understand that if we continue to subject minor landlords to the security of tenure, they will feel that they are being treated rather unfairly. Why are the restrictions removed for some people but not for them? However, Madam Chairman, I only want to point out that the security of tenure has always been a status quo and the Government is now introducing a change that we cannot feel at ease with, nor can we be persuaded that it would not cause sufferings to even more people.

Therefore, under these circumstances, I only hope that this change to the status quo will not occur so rapidly and will not be introduced at one stroke or in a wholesale manner, but rather, tenants paying monthly rents of less than \$5,000 will be allowed to maintain their *status quo*. We feel that at least for people on low income, rapid changes to the status quo that will land them in difficulty can be avoided. As regards tenancies of monthly rents of more than \$50,000, there will of course be no problem at all and I very much support the removal of tenancy control in such cases.

Therefore, in conclusion, no matter how much the Government has said, we can all see that those are very hollow explanations intended to put the minds of some Members at ease. However, to Members like us, who deal with grass-roots members of the public at the front line every day, we feel that the so-called safety net is far from adequate in view of the existing circumstances. We very much believe that the total removal of restrictions will impact on low-income families greatly and create new difficulties for many people. We feel that this should not be the way to proceed and that this matter should be handled step by step, by first taking a step forward in the removal of restriction and then conducting reviews and making observations. This is what a responsible government should do.

I so submit. Thank you.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That new clause 3A be read the Second time.

MR HOWARD YOUNG (in Cantonese): Madam Chairman, Mr Albert HO proposed an amendment requesting that security of tenure be retained for tenements with a monthly rent below \$5,000 instead of removing all security of tenure restrictions in one go. The Liberal Party will not give it support. As I said earlier, the Liberal Party supports the Government's proposal to remove rent control to help restore the free operation of the private rental market and to encourage property owners to rent out their properties. On the other hand, as Mr Albert HO's amendment involves almost 50% of all rented flats in Hong Kong, which is a very huge quantity, its implication is extensive and it defeats the intent of the Bill to remove rent control.

I so submit.

MR FREDERICK FUNG (in Cantonese): Madam Chairman, some of the points I am going to make have already been covered by Mr Albert HO, still I feel that I have to repeat them. Firstly, on the problem of security of tenure, when I first spoke on it, I said it was something that had been there for some 20 years. But actually it should be even longer, that is, the problem of security of tenure has been there all the time. Secondly, I must stress that the present amendment moved by Mr Albert HO, which proposes that security of tenure be retained for flats with a monthly rent of \$5,000, will in fact cause no monetary loss to landlords for one thing, because they can continue to charge the market rent, and will not incur monetary loss because of the so-called security of tenure. For another, they can repossess their properties for self-occupation if they really want to. The only problem is that although a landlord can charge the same rent, he may not choose to rent his flat to B and not A because he dislikes A. That is the only difference. How can this difference alone be able to affect some tenants by depriving them of their right to continue to live in a flat, in particular the right to live in one in a certain community?

Secondly, Ms Emily LAU stated in her speech earlier that she had met many government officials at meetings and they had made many, various promises which I do not know were formal or not. However, I have never heard them formally at meetings of this Council. Even among the things that the Secretary spoke about earlier, there are no bundles or series of promises to Ms Emily LAU, such as government officials will help those who are evicted to find alternative accommodation, such as compassionate rehousing and dwellings in institutions operated by voluntary organizations. Nor did the Secretary make

such promises. He only said that if the Social Welfare Department was involved, he would try his best to put in a good word for the persons affected. If the Housing Department was involved, he would go and hold discussions with the Department in the hope that the Department would speed up its work in processing applications on the Waiting List. In fact, I also want to talk about the several things mentioned earlier by Ms Emily LAU, and that is, I reckon that it is inconceivable that government officials would help evicted tenants find alternative accommodation. I will not believe it unless the Government makes an explicit announcement that this is a future policy, and I will not believe it until this policy has materialized. However, at this moment today, I still do not believe it.

Thirdly, regarding compassionate rehousing, insofar as I understand it, it is more difficult to get than Comprehensive Social Security Assistance (CSSA). Besides meeting the requirements of CSSA, one must also be in certain health and social conditions, and so on, before he is offered compassionate rehousing. Regarding the Urban Renewal Authority (URA) that we have talked about today, Mr Stephen FISHER promised us when he was here at a meeting the other day that he could allocate 1 000 PRH flats of the Hong Kong Housing Society and 1 000 PRH flats of the Hong Kong Housing Authority (HA) to those affected by redevelopment. He even said that 400 flats from each of them were at the sole disposal of URA as they were exempted from the rules of the waiting system. Now this cannot be realized either, and the reason is that they are only meant for people eligible for compassionate rehousing. Many people do not know what "compassionate rehousing" is. For example, presently only those with an income less than \$10,000 are eligible for PRH, but even those with an income of \$11,000 can be eligible for compassionate rehousing. This is not the actual case. The so-called "compassionate rehousing" means those concerned must have an income below \$5,000 or \$6,000 — it does not mean those with an income of \$10,000 are eligible; only those in poorer conditions are. In other words, is it possible for you to be offered compassionate rehousing on the grounds that your flat has been repossessed by the landlord? Well, 99% of the very good tenants, who are able to pay their rents without arrears will definitely be not eligible for compassionate rehousing. Unless someone can tell me that there is another definition for "compassionate rehousing", it will be very difficult to obtain this kind of rehousing.

There are institutions operated by voluntary organizations, but what sort of institutions are they? Let me tell you what institutions there are in Sham Shui

Po. Some of them are institutions for abused women; some are for street-sleepers and hobos; some are for abandoned children. None of these institutions are meant for those who have been living in proper housing but are now evicted by landlords. They are not going to move into these institutions just because of this. The reason is that these institutions may not rent their premises to them and may not provide accommodation for them because they do not meet the requirements for admission to these institutions at all. I reckon that they are the kind of person regarded as normal and not rendered homeless by any family disputes. Therefore, I do not see what institutions will provide rentable residential premises to normal persons with low income. If there are, may I ask the Government to tell me what they are and how many units there are? Those people should have gone there to rent a dwelling instead of waiting until they are evicted, right? Therefore, I feel that it is necessary for a clear explanation to be given before it can be said that security of tenure can be removed on the grounds that the Government has a whole set of policies. As to the problems caused by repealing the existing provisions, the Government must have a set of policies so that we know that it can really remedy problems caused by this policy.

I feel that in the speech given by the Secretary earlier, he did not tell us that there is such a policy. The only thing that the Secretary is confident of doing is to go and talk about those procedures and legislation, and so on, with the HA to see if it is possible to speed up the process. That is the only point. Besides, the extent to which it can be expedited is not known. I told the Secretary earlier — and I believe that the Secretary knows it better — urban PRH flats would not be allocated to applicants who submitted their applications after 2002, or 1 July 2002, which is the revised date just determined last week. Even applicants who submitted their applications before 1 July will have to wait for five to six years before urban PRH flats are allocated to them. If I am asked in this year to move away from my flat in the urban area in 12 months' time, how can I obtain an urban PRH flat through the waiting system? The Secretary may wish to give an answer later — but I believe he will not be able to do it and he may say that he has to enquire with the HA. However, the HA will tell the Secretary, "Sorry, it is impossible to do so unless the Secretary changes the existing policy."

Therefore, all statements to the effect that remedial actions will be taken to resolve problems caused by the Bill are empty words, not promises. Even if they are promises, there may be deviations when they are due.

Madam Chairman, in respect of the Bill, I said earlier at the very beginning that I agree entirely that the responsibility of protecting the security of tenure of the public lies with the Government, not the small landlords. This is what the Government has been doing in the past decades. I still think that it is too rash if this arrangement is completely lifted in one go. The Government should have a whole set of policies, a direction. I remember what we spoke at the debate last week, that is, the Government should have a direction, a set of values in respect of housing, so that we could see that the Government has a set of housing policies; so that we could regard Hong Kong as our home when we live in Hong Kong. There must be a set of such policies if we are to live in contentment and stability. Perhaps, because of the need to boost the market, to rescue the property market two years ago, the Government took a series of actions to discontinue HOS construction and HOS sale and pushed everybody into the market. If the Government now thinks that the market is omnipotent and can give Hong Kong people, in particular the low-income earners a stable dwelling, such a view is problematic *per se*. The truth is that even the market, the Hong Kong market, is not a perfect and flawless market. It is not a perfect market but one with many loopholes, and it is these loopholes that the Government needs to plug.

Today, if the security of tenure is shifted onto the shoulders of the market, actually a huge loophole will be opened. Today, the Government has not made any promise, but I wish to tell all Members and I wish to tell the Government — I call this advice, or warning to the Government — in a couple of years, this problem is going to haunt the Government and the housing problems of Hong Kong people will never be resolved. Secretary, this is your responsibility and your power. However, the Secretary has not exercised his power to fulfil this responsibility. Thank you, Madam Chairman.

MR IP KWOK-HIM (in Cantonese): Madam Chairman, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the removal of all security of tenure restrictions. Therefore, the DAB will not support the amendment proposed by Mr Albert HO.

As a matter of fact, I have queried Mr HO at a meeting of the Bills Committee why he set the threshold at \$60,000, or the monthly rent of \$5,000. Mr HO had given at that time the same answer as he gave earlier here, saying

that time was needed to see what problems might arise after its implementation. He thought that it would be more desirable to do it this way.

Actually, if we look at the amendment proposed by the Democratic Party, we can see that it aims at drawing a line at \$5,000 so that 50% of rented flats in Hong Kong will not be affected by the Amendment Ordinance. If this is a gradual and progressive approach, it is actually undesirable. Let us make an analysis. Residential flats with a monthly rent below \$5,000 are invariably small units. If the flat is mortgaged, that is, if the owner has not paid the purchase price of the flat in one lump sum and is repaying the mortgage loan in instalments, his monthly expenditure, including rates, government rent and management fee, and so on, may amount to \$5,000 to \$7,000. To buy a flat and rent it out for income has been an unprofitable venture for a long time. If unfortunately the tenant is a rogue, the monthly expenditure will be higher than that required for supporting one's parents. These small property owners have invested with their savings or meagre gains. If they run into rogue tenants, basically they will not be able to employ a lawyer and they may not even be able to protect their own rights. We may be going a bit too far if we ask these small property owners to protect the so-called security of tenure of other people.

Mr HO pointed out that the amendment can provide protection to low-income, elderly or chronically-ill tenants, in particular, tenants dwelling in cubicles, sub-partitioned rooms and old tenement buildings. Actually, if we make a serious analysis, the key factor of the present amendment is the rateable value and tenants of cubicles and sub-partitioned rooms will not be benefited at all. For example, if a flat of 600 sq ft to 700 sq ft is partitioned into six cubicles with each of them rented out at \$1,000 or so, then the rent of the entire flat is \$6,000 to \$7,000. Of course, a small landlord has the right to request for individual valuation of cubicles, but how would any landlord voluntarily request individual valuation of bedspaces or cubicles in order that he may be subjected to more regulation? Therefore, on the issue of valuation, those living in cubicles or so-called low-income earners are actually not protected. Besides, if the assessed rateable value of the entire flat is higher than \$5,000, the owner can apply to the Rating and Valuation Department for revaluation, and there will be an upsurge of disputes over rateable values. Therefore, drawing a line on basis of rent is actually tantamount to setting a lowest chargeable rent. Therefore, in reality it is infeasible to provide protection to the underprivileged by amending

the Bill concerning landlords and tenants. Mr HO's good intention as a lawyer may eventually become just a slogan.

As a safety net is already provided by the PRH, maintaining security of tenure for premises of a rateable value below \$5,000 will not achieve the aim of protecting the socially disadvantaged, and it will only deprive small landlords of their right to dispose of their small private property. In view of this, we are of the opinion that this proposal is impracticable. Therefore, the DAB opposes Mr Albert HO's amendment.

Thank you, Madam Chairman.

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

MR JAMES TO (in Cantonese): Madam Chairman, I would first like to respond to the Secretary's remark, that it is simply unfair if a line is drawn in this manner. According to the situation described just now, even if we do not care about how much the rental value is, we are still defining what a low rental value is, that is, a certain amount is considered by us as a low rental value. However, no matter where we draw the line, it will still divide premises into two different categories.

All along, from the viewpoint of Mr Albert HO, we should not discuss the situation using 1981 as the starting point. Instead, the tenancy control, that is, Part I (there are also Parts II and IV, and so on) has been implemented since as early as the period immediately after the Second World War. In fact, all along, these provisions have been serving the needs of society. As for the parts that deal with commercial premises, we shall skip them for the time being. As the situation developed, eventually we started to have the policies in place in the '80s — that is, the provisions were supposed to be withdrawn slowly (in the wording of the Government). During the last decade or so, I have been working on several provisions related to tenancy control. Apart from this Bill, I have also moved certain amendments. The wording used in government policies are "gradual, phased and orderly withdrawal". Therefore, these ideas have not been brought up all of a sudden today. I must admit that the Government must have thought about them. However, please bear in mind that, all along, the intended meaning of the Government has always been: It has to be a gradual, phased and orderly withdrawal. As such, the so-called unfairness

has existed all the time, as reflected from the addition of Part IV on top of Part II. Just now Mr Albert HO has also said that Part II governs properties with lower rental values, and when Part IV was added, it was meant to deal with properties of higher rental values, governing security of tenure, but not matters on rental control or rental increases.

Later when it came to 1992 and 1993, or even 1994, Part II, that is, the part on protection against rental increases, was gradually abolished. And then we have only Part IV, which is related to the comprehensive security of tenure. I still recall that the part on gradual withdrawal (that is, Part II was removed in its entirety, and only Part IV remains, which only deals with market rents) had been postponed. So the landlords had nothing to lose, at least they could charge the market rents. This has replied Mr IP Kwok-him's question on market rents. At that time, the postponement involved the delayed implementation from 1995-96 to 1997-98, that is, a postponement of two years. I remember that the then Secretary Dominic WONG was not quite happy about this. However, this approach was in line with the original policy of the Government, namely, a gradual and phasal approach. At that time, the most we could discuss was whether the effective date should be postponed either to 1995-96 or 1997-98. That is, which year to which we should postpone the abolition of the protection against rent increases in Part II.

Therefore, I have been thinking this: I really cannot understand why the Secretary should act like this, especially the Secretary is such an experienced official who has served in many different departments. He should understand all this historical background, whereas, on the contrary, I belong to the younger generation. Mr Albert HO has done more, whereas Mr Martin LEE began to take an interest in this aspect as early as over a decade ago, and he had also done a lot during that period. However, there are certain conditions which I fail to understand now. For example, as Mr Howard YOUNG said, initially what the Liberal Party had wanted to propose was, as remarked by Mr James TIEN, \$30,000. So the discussion started from this amount. Later the direction changed slightly, and they said that perhaps they should propose the three-year grace period. However, later, even the proposals involving \$30,000 and three years were gradually removed and they started to fade out, and that all these proposals were dismissed by the Government as "no good" or "ridiculous". I find it very strange as the policies had always been implemented in this way in the past. Right? Now, what we are doing is no more than a continuation of

this policy, and we just want to act more prudently, so we suggest taking another closer look. So, talking about fairness or unfairness, or whether it is unfair to landlords of low-valued flats (or the small landlords), actually we are just carrying on with the work in this direction and policy intent, that is withdrawing in phases. This has always been the way it has worked.

Therefore, please do not say that, probably due to a sudden prick of his own conscience, tenancy control should be removed completely now, and if you disagree with removing it quickly, then it is unfair. Wow, how on earth can you say that? The Secretary has served in the Government for several decades, and he should know it very well that there is a kind of continuation with all government policies. Even after 1997, we can see that everything is still done by phases. The policies are always implemented in such a continuous manner. This has never occurred before: All of a sudden, like at the prick of his own conscience, we are not sure why, after doing something, he said that everything done in the past was unfair. Is this not similar to the incident in which Mr Frederick FUNG criticized a certain official for having committed an error? The discussion then was on housing loans. Suddenly, that official said, it was immoral for us to lend money to the people to purchase properties, because if they incur a loss, they would blame us. The situation is the same. The Government advanced its justifications when it granted the loans to the people, but later when this measure was withdrawn, the officials changed their stance and said that it was immoral for us to do so. Please do not act in such a manner. Otherwise, it will become very difficult for us to hold discussions in a rational manner.

In fact, I very much agree with the queries raised by Mr Frederick FUNG just now. Ms Emily LAU said that the Government had once lobbied her. After listening to them, she also thought that their justifications were valid, and government officials even brought her to meet some estate agents. So, after having listened to these people, she also thought that it was "Yes, all right. Very good." Mr Frederick FUNG has also pointed out that what we are discussing now are not the policies. At least the Government still has not disclosed in the Second Reading of the Bill what it will do. Will such a practice become a policy? Will resources be allocated? Or how will it be done? Of course, the Government may think that it is very simple. It will say, we know there is someone called HO Hei-wah in this world, right? Or they may contact the Permanent Secretary Ms Shelley LEE. Oh, no. She has already been transferred to another post. When the Government located HO Hei-wah, they

may then say something to him like this, "Hey, please do something more in this aspect. Come and help the people here. Go and contact those NGOs for help. Or go to the social work teams working in the districts covered by the URA projects for help." The Government can only act in this way. But the Government actually does not have an objective, or a proposal, or a complete plan in proceeding with the whole issue. All it has been doing is to lobby people from different parties. Therefore, those Members will say, "What shall we do? I cannot treat either side with partiality." So the Government tells them, "There must be a way out. It is possible." But that is by no means a safe solution.

Besides, there may be cases like those mentioned by Mr Frederick FUNG just now. For example, the Government may say that it will relax certain eligibility criteria for public housing — but it is not referring to the locations in the urban areas, but the backgrounds of the people. For example, the Government refuses to relax the criteria such as the residence requirement, whether they are permanent residents of Hong Kong, and so on. I have once again raised this question in a meeting: Can residents affected by the URA redevelopment projects be allowed to apply for those so-called 20% Housing Society flats approved by the Government? Or for those who have just failed by a narrow margin to qualify for allocation of a flat in Housing Society projects, that is, the so-called sandwich class, is it possible for the Government to relax the requirements on them for allocation of a public housing flat? However, Deputy Secretary TAM Wing-bong flatly turned down our request, "No need to raise this request. We are very rigid in applying these criteria." However, when he lobbied Members for support, he could talk most beautifully, ready to concede to whatever requests raised, such as he might say that compassionate rehousing could be arranged, regardless whether the residents concerned were qualified. His behaviour reminded me of a retired principal assistant secretary — that principal assistant secretary kept repeating a certain point, again and again, with the conviction that people will believe in him if such a point was repeated again and again. However, in fact that point was not true, so in the end he still failed.

Eventually, to be honest, I guess these residents will not become homeless street sleepers. However, they will have to bear with the painful experience of being evicted by force. They will eventually be able to find accommodation for themselves as they are now paying market rents. So small landlords will not incur any loss either. The residents can afford to pay the market rents, and actually they have already been paying the market rents. The only ordeal they have to suffer is the painful process of travelling around to look for the right

accommodation for themselves. In the end, this will cause some disruption, or what we call impact. This is because, generally speaking, we know and we believe that, these low-income residents who used to live in some old premises will have an adaptation problem if they are made to move to some other places. So these are the difficulties they have to face.

Mr Albert HO has also proposed another amendment, which so far has not been discussed by Members. No one has mentioned it specifically in this meeting. In fact, what is the effect of such an amendment? The effect is, there will be some impact on private developers. For the URA projects, we have already mentioned them. They will be proceeded with according to the old plans. In other words, out of the 25 original projects, the remaining 20 will adopt the old compensation standards, though at a discount. Some attractive terms, such as the removal compensation or more allowance for those who handed over the premises early, have gone. But still there still be some compensation. At least the compensation for those 20 projects will still be valid, whereas the compensation for those that come after all these will be adjusted downwards. This part has already been mentioned. For affected private developers, the removal of restrictions on security of tenure, to put it in a more high-sounding manner, will cause some unintended effect on them. That is, a blow will be dealt to them inadvertently, "Oh, I do not intend to deal a blow to you. Now you are dead, what should I do?" For private developers, this is equivalent to zero, that is, the compensation that should be forthcoming according to a certain formula has become zero all of a sudden. However, the Government said that they had not thought about that at that time. The Government can only say that it had never thought about that. But this was not the case indeed because earlier on, there were several consultative documents when the Government introduced this Bill related to tenancy control. At that time, two to three meetings had been held at district levels, in which certain Assistant Directors or even the Chief Valuation Officer of the Rating and Valuation Department attended. At that time, I already told the Government, and other Honourable colleagues, as far as I can remember, such as Mr Fred LI and so on had made the same point, that once the Government removed tenancy control, even the tenure could not be protected and then the compensation to be provided by affected private developers will become zero. At that time, the Government said that they would take note of this point. But after the meeting, they possibly would not care about this anymore. No progress was made internally in the Government, nor any research has ever been conducted. If I describe this positively: It was a case of omission on the part of the Government;

otherwise, it was a case of deliberate omission, so that it would become easier for developers to repossess the premises. Please bear in mind that, this was not necessarily the problem of small landlords; instead, the compensation already factored by the developers in their calculations has suddenly become zero.

All right, if Mr Albert HO's amendment is passed now, for those old buildings built several decades ago, the clearance on this side of the street may be undertaken by the URA, whereas the clearance on the other side could well be conducted by a certain private developer. From now on, the relation between the developer and the URA will become very unusual. Why? Because the costs will be very different. Although such buildings are situated on the same street, they are separated by such factors. So, will the developer be so active in co-operation with the URA? Because the developer may not have to provide any compensation at all. As far as we can see, no matter which party is responsible for the redevelopment project, it is most important that the acquisition of the premises could proceed as quickly as possible. This is because, despite the low interest rates now, the costs involved may not be marginal. Under such circumstances, the situation may turn out like this: The private developer launches a redevelopment project, in the end, the compensation for the tenants may suddenly become zero. This is the effect. However, it seems that nobody has ever mentioned this proposal specifically. Of course, some people may think privately that, "Of course the developers will think that the compensation should become zero. This will expedite the demolition of the buildings." I am not sure if this is true, and I am not even sure if this is really the idea on the mind of the spokesman of property developers. Of course, Mr Abraham SHEK is the spokesman of property developers. Obviously he is. But there are some others who speak secretly for property developers. Right? They will not speak specifically on that issue. However, once the Bill is passed, they will say that this is the free market mechanism at work. Anyway, private developers will get very substantial benefit, and they have helped the developers a lot in this aspect. In fact, how on earth should we tackle the problem in this aspect?

Lastly, what I want to say is, actually, all government policies have always been implemented in phases, and in a steady manner. In the end, the Government may come up with a certain justification, otherwise, I reckon, someone will naturally come forward to say, "\$60,000 is a lot of money, can we accept half of this amount?", just as Mr IP Kwok-him said just now. The Liberal Party has already proposed \$30,000, and the amount has really been

reduced substantially, right? Later, of course, they made another U-turn, and proposed three years instead, which has become a transitional period now. However, with a transitional period, it means that an ultimate target has already been set. But remember, there is no going back because we have pressed the button, passing the resolution that there will not be any tenancy control three years later.

Therefore, I think Honourable colleagues may as well think about this: Should we conduct a review? Of course, in the end, everything will become very simple. Upon the completion of the review, if the market shows a steady upward trend and that the supply of properties is sufficient, and if we can see that there is no impact on a sustained term, no problems at all, then the Democratic Party will share the view of everybody and agree that the ultimate policy is the same. But this is not the moment yet. Should we now sit down and act more prudently and carefully because we should treat the tenants, especially those belonging to the lower strata of society, in such a way? What is more, all along, the Government has adopted a phased approach in withdrawing certain policies, and this is a more prudent approach. After the review, the Government and even we can become more well at ease in implementing a complete removal of tenancy control, putting a full stop to tenancy control.

Of course, I just hope that we can do this in this aspect. It may be a judgement problem, but it would inevitably involve some difficulty for people belonging to the lower strata of society to adapt themselves to new environments. As I am saying this, I put myself in a similar situation as that of Ms Emily LAU — I know some small landlords do have some difficulty. However, we must bear in mind that this policy has always been implemented in this way. Many small landlords knew the existence of tenancy control when they bought their properties; and in addition, there is also the issue of anticipation. Small landlords should not say that after they have bought the properties and the Government traps them and plays a trick on them by suddenly formulating the tenancy control legislation. No, this is not true. Tenancy control has been in place for 20 years. Besides, the Government has never promised a complete removal of tenancy control by 2004. So the Government has not tricked the small landlords, nor has it tried to victimize the small landlords. Small landlords should have been anticipating the withdrawal of tenancy control by phases. As such, the Government would not make small landlords feel that they have been tricked, thereby feeling extremely traumatic. Besides, we must also

bear in mind that Part IV still exists now, that is, the landlords should be able to charge the market rents. I know difficulties exist for both sides, but still I hope that my proposed approach can be adopted. This approach is more prudent, and we should use such a policy to tackle the issue. Thank you.

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

(Mr Albert HO raised his hand to indicate his wish)

CHAIRMAN (in Cantonese): Mr Albert HO, you may speak again later on.

MR ALBERT HO (in Cantonese): I can speak again later on?

CHAIRMAN (in Cantonese): Yes, you may speak on this clause again because this clause is moved by you.

MR ALBERT HO (in Cantonese): All right.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for Housing, Planning and Lands, do you intend to speak?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, the new clause 3A proposed by Mr Albert HO seeks to exempt domestic tenancies for tenements with ratable values below \$60,000 from the provisions on removing security of tenure. We oppose this proposal.

As we have repeatedly pointed out at the meetings of the Bills Committee, Mr Albert HO's proposed amendment is both unreasonable and defective. To begin with, the proposed amendment will undermine the Bill's policy objective of fully restoring the free operation of the rental market. The operation of the rental market should be left to market forces and should not be dictated by any regulatory regime. Furthermore, both landlords and tenants should have the same right and freedom to determine their contractual tenancy obligations by mutual agreement. This is precisely the main objective of removing the current security of tenure restrictions.

Mr Albert HO's amendment will partially retain the outdated regulatory regime and sustain unnecessary market intervention. It is estimated that if this amendment is passed, around 50% of the 240 000 existing rented tenements may continue to be subject to security of tenure restrictions, thus significantly weakening the actual effect of the Bill.

Mr James TO has spoken at some length about the reasons for his suggestion that security of tenure should be removed gradually in phases. Actually, we must examine whether the conditions are ripe and whether there are any marked differences between past and present conditions. According to Mr James TO, if there is sustained growth, if there is an adequate supply of rental units, the removal can be introduced. Well, of all the points in his entire speech, this is in fact the most agreeable to me. Using this as an indicator or criterion, let us now check whether the conditions are ripe. I think if we are objective enough, we will have to admit that the criterion has been fulfilled. The conditions are actually ripe. Therefore, it is indeed the right time for us to do the right thing.

The biggest problem that will arise from the proposed amendment is the emergence of a two-tier system which is most unfair to owners of residential properties with rateable values below a certain level. There is no reason for continuing to deprive certain landlords of their liberty to change tenants upon tenancy expiry, simply by virtue of the rateable values of their properties. Owners of low-value residential properties may themselves be people of small means, so it will be unreasonable to force them to cater for the housing needs of poor tenants by requiring them to rent their properties to the latter endlessly.

Besides, the experience of the Rating and Valuation Department tells us that unlike landlords of high-end residential properties, low-value residential

property owners are more likely to be troubled by rogue tenants. That is why they have a greater need than owners of high-value properties to have the liberty of changing tenants. The proposed amendment neglects the rights and interests of owners of residential properties with low rateable values, meaning that these owners will have to continue to face their ordeals with rogue tenants.

The removal of security of tenure will enhance owners' desire to lease their properties, thus increasing the supply of rental properties and fostering competition in the rental market, much to the benefit of both landlords and tenants. As for those tenants having difficulties in finding alternative accommodation, as I have pointed out just now, there is already a safety net in society. I have in fact talked about this already, but let me just repeat my point for the record — housing assistance is available from the HA, SWD and non-governmental organizations. We will ensure that no tenant will be rendered homeless by repossession.

Besides, the transitional arrangement proposed by us will ensure that all tenants of existing tenancies will still enjoy one more year of security of tenure after the commencement of the Bill. They will therefore have sufficient time to look for alternative accommodation. With the safety net and the transitional arrangement, there will be no need to retain security of tenure restrictions.

For the reasons explained above, the Government opposes the proposed amendment of Mr Albert HO. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Mr Albert HO, you may speak again.

MR ALBERT HO (in Cantonese): Madam Chairman, the Government reiterated that it would be unfair if domestic premises were subject to different restrictions due to different rateable values. In fact, it has made a mistake again. As I have mentioned earlier, when you want to change the existing policy, you will describe it as utterly worthless and say that it is a draconian law or bad law which will lead to gross unfairness. Is it necessary to do that? Next time when this Ordinance has to be amended, will the Government say that it is a draconian law leading to confusions in the community and it has denied many

people protection? Is it necessary to do that? Is it necessary to severely criticize the existing legislation whenever the Government wishes to amend it?

Why did I say this? Madam Chairman, as I have just said, buildings were divided into different categories in history. As for the security of tenure, only some residential tenements were covered by such protection before 1981. I do not know if the Secretary is aware of this background. If you are not, please go back and check it out. I hope the Secretary will not frequently make this mistake whenever he instructs his subordinates to write the speeches for him. The same mistake was made on the last occasion. It does not matter even if the loan scheme is terminated. But he said in the speech that the loan scheme was unfair because it would compete with the banks for business, and it was also unfair to encourage speculation which would lead to financial losses for property buyers. Why did the Secretary do that? Please remember that when the Secretary tried to solicit our support a few years ago, he resorted to all means possible and even sent the "paparazzi" to lobby us that the loan policy was desirable. Is it necessary to do that? This is very immature. I even consider it imprudent. I hope the Secretary will review that.

In a nutshell, Madam Chairman, I oppose a hasty relaxation of tenancy control in one go precisely because it will cause enormous impact on society and the assessment of such impact is far from adequate. What we need is prudence, which is always emphasized by the Government. I think the legislative spirit of the Government is problematic because it has failed to uphold the principle mentioned by me just now.

Finally, I would respond briefly to the issue raised by Mr IP Kwok-him. According to Mr IP, the tenants of cubicles or partitioned rooms will not benefit because of the technical problems in my amendment. I have no idea why he said this and wonder whether he has thoroughly studied the amendment. One of the provisions in the amendment stipulates that the rateable value of part of a premises will be taken into account and that part of the premises will be regarded as a unit. So, my amendment will be applicable. So, Mr IP has to study the whole amendment. Otherwise, it will be very silly of him to attack it on the grounds of technical problem. When I proposed this amendment, I had discussed it with the legal adviser and considered all possible impact. If a flat with a market rent of \$10,000 is converted into a room for lease at \$3,000, will it fall outside the scope of protection? We have definitely considered such an issue. Of course, it does not matter even if Mr IP does not support me in the

end on the grounds that I wish to help the landlords. It does not matter even if you say the poor tenants or the underprivileged will cross the bridge when they get to it and the principle of "the survival of the fittest" should be upheld in the free market. It does not matter even if Mr IP says he trusts that the Government will deal with the matter properly. But Mr IP should not oppose it on the grounds of technical problem before a thorough examination of the amendment.

Another point I would like to raise is about "rogue tenants". I am very surprised that the Secretary has raised this issue. I think if the Secretary is familiar with the spirit of the Ordinance or the legislative intent, he will have known that this is not a relevant issue. From the beginning to the end, and that is, from the moment when the Bill was tabled to the Bills Committee to the moment when a report on the Bill was presented to the Legislative Council, the Secretary has not mentioned this issue. The reason is very simple. The problem of "rogue tenants" is not about whether or not they should return the premises to the landlords because once they default rent payment, they are in breach of the terms and conditions of the tenancy from the legal point of view, which will lead to their loss of right of residence. The rogue tenants, making use of the lengthy procedures of court, resort to delaying tactics so that they can take advantages and commit fraudulence and sabotage. Yet, the objective of the Bill is to determine when repossession can take place. What is the relevance of rogue tenants? Even though the restrictions are relaxed, if the court procedures in respect of repossession are not streamlined, the purpose will still be defeated. Moreover, I have made a lot of efforts in working on this Ordinance in the hope that the repossession procedures can be streamlined. But from the beginning to the end, I have always asked, "How many rogue tenants are there? Do we have any statistics?" However, the Government is unable to give any answers. So, the Government has to admit that the purpose of the legislation is not to address this issue. Does the fact that the Secretary has mentioned this issue reflect that he himself does not quite understand the objective of the legislation? In my opinion, the problem of rogue tenants is totally irrelevant. But in any case, we welcome any improvements to the procedures in this respect.

CHAIRMAN (in Cantonese): Before I put to you the question that new clause 3A be read the Second time, Members will please note that the Committee's decision on the motions on the Second Reading and addition of Mr Albert HO's proposed new clause 3A will determine whether or not Mr Howard YOUNG may later move the Second Reading of his new clauses 5A and 5B. If the

motion on Second Reading and addition is passed, it will by implication mean that Mr Howard YOUNG may not move motions in respect of his new clauses 5A and 5B at a later stage.

CHAIRMAN (in Cantonese): I now put the question to you and that is.....

(The Secretary for Housing, Planning and Lands raised his hand)

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, can I request to speak?

CHAIRMAN (in Cantonese): Secretary, sorry, I did not notice that you had raised your hand. Please be seated first. Let me explain it to all of you. In the Committee stage, Members and officials can speak more than once. So, Secretary, you can request to speak again. Next time, if you wish to speak again, please let me know earlier. You may now speak.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I thought you would ask me. I do not really wish to speak, I just want to put it on record. Earlier in my speech, I did not mention "draconian law". Instead, I said it was a bad law. But I have already explained clearly the background against which I said it was a bad law. I was very surprised, having no idea why Mr Albert HO took it personally and mentioned "draconian law" in his speech. I just wish to put it on record that I have never mentioned "draconian law". Even though I have said that it was a bad law, I was not targeting at Mr Albert HO or any other Members. That is only the way I wrote a letter to Mr James TIEN in order to explain the matter to him. I hope to put this on record.

CHAIRMAN (in Cantonese): Secretary, certainly this will be recorded because there will be a verbatim record of the Council meeting. I would like to suggest that you immediately ask for clarification after Mr Albert HO has spoken if you think he has misunderstood you. And I will certainly allow you to speak immediately.

MR JAMES TO (in Cantonese): Madam Chairman, I am speaking once again. Actually, I speak again on the same viewpoint, that is, though Mr Albert HO is not the official introducing this Bill, he has explained the Bill and presented his own arguments. So I am speaking to invite the Secretary to explain, at this stage, why he said earlier that this Bill was either directly or indirectly related to solving the problem of "rogue tenants", as he has not explained it in detail just now. If the Secretary does not further elaborate how they are related, so as to let everyone know, as a matter of record, why they are related, then I would ask him to either withdraw his remark, or say that he has really made a mistake about it. He may choose one of these two options. I am speaking to invite the Secretary to clarify and to make further elaboration. Otherwise, I would like to ask him to withdraw his remark that this Bill is related to "rogue tenants".

CHAIRMAN (in Cantonese): Anyone else? Mr Albert HO.

MR ALBERT HO (in Cantonese): I also want to make a simple clarification; I would like to make a simple analogy. The Secretary said the amendment moved by me was extremely unfair. I feel that this was a reckless attitude, which was equivalent to accusing Mr Howard YOUNG's amendment of being a bad law or a draconian law — it is equally reckless. I did mention that the Government seemed to be unfamiliar with its traditional legislative history and background.

I have repeatedly stressed that many reforms are required in society, but this does not matter. The Secretary said that the times had changed and many things had to be changed so as to cope with the needs of our time, and that many worries were unnecessary. These do not matter, the Secretary may say so. However, the Secretary has served in the public sector for such a long time (two to three decades), then he says that they are not necessary now, and that keeping them is an unfair practice. Such an approach is actually very immature. As an official responsible for implementing policies, he should not do this. It will make many Honourable colleagues feel disgusted. In the past, I had quoted an example: When you sought our support, you would come to us and beg for assistance; but when you wanted to do away with certain practices, you would say that it would be unfair if we retained such practices which were adopted in the past, and that it would involve ethical risks, and would make others suffer losses. That incident happened in the Panel on Housing. I only want to tender

the Secretary a piece of advice: I hope the Secretary will not think in the direction described by me just now, that is, once something is considered not necessary, you would launch unreserved attacks on them, thereby making them highly undesirable, forgetting the attitude once adopted by the Secretary when you sought our support for the Government.

CHAIRMAN (in Cantonese): Before I ask the Secretary for Housing, Planning and Lands if he wishes to speak again, I would like to see if there are any other Members who wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): No more Members wish to speak now, right? Secretary, do you need to speak again?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I would be very brief. Regarding Mr James TO's request, I think I have nothing to add. As for Mr Albert HO's views, I think we all understand that we have to keep abreast of the times and adopt suitable measures whenever necessary. We cannot stick to our old ways in dealing with certain matters. This is very much like driving a car. How dangerous it is if a vehicle has no steering wheel! The vehicle will make a blind dash. Sometimes when we criticize someone, we may say that he has made a turn of the wheel. However, let us imagine what the world will be if a vehicle does not have a steering wheel. I believe everybody sitting here has had the experience of "turning his wheel" in different situations, including when really driving. (*Laughter*) I strongly believe that if we do not steer in the course of driving, nobody will be sitting here alive. (*Laughter*)

Thank you, Madam Chairman.

MR JAMES TO (in Cantonese): Madam Chairman, I am speaking once again in the hope that the Secretary might make a "U-turn" to withdraw his remark to the effect that this Bill is related to "rogue tenants", or to further explain this point. If the Secretary is unable to explain how "rogue tenants" are related to this Bill,

then the viewpoints raised by him were all untenable. This is what I want to say. I am inviting the Secretary to reply once again.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I think I should rise to speak. I respect Mr James TO's views. I, of course, have my own reasons. But I do not think this is the right opportunity for us to have a pointed debate. So I have only these words and have nothing to add.

CHAIRMAN (in Cantonese): No hand is raised to indicate a wish to speak, right? I now put the question to you and that is: That new clause 3A be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

CHAIRMAN (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Dr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr Eric LI, Miss Margaret NG, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Albert CHENG, Mr SZETO Wah, Mr WONG Sing-chi and Mr Frederick FUNG voted for the motion.

Ms Cyd HO, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Ms Audrey EU, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the motion.

THE CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, three were in favour of the motion and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 10 were in favour of the motion and 15 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

MS MIRIAM LAU (in Cantonese): Madam Chairman, I move that in the event of further divisions being claimed in respect of other provisions of the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 or any amendments thereto, this Committee do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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 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. Although everyone is very happy, (*laughter*) the meeting has to go on. So please keep quiet.

I order that in the event of further divisions being claimed in respect of other provisions of the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 or any amendments thereto, this Committee do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): As Mr Albert HO's proposed new clause 3A has been negatived, that will by implication mean that Mr Albert HO may not proceed with his related amendment to clause 3, as it is inconsistent with the decision already taken by the Committee.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 3 stand part of the Bill.

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): Clause 5.

CHAIRMAN (in Cantonese): The Secretary for Housing, Planning and Lands, Mr Howard YOUNG, Mr Albert HO and Mr James TO have separately given notice to move amendments to clause 5.

CHAIRMAN (in Cantonese): Committee now proceeds to a joint debate. I will first call upon the Secretary for Housing, Planning and Lands to move his amendment, as he is the public officer in charge of the Bill.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I move the amendment to clause 5 as printed on the paper circularized to Members.

The main purpose of the amendment is to propose the addition of a transitional arrangement which will be applicable to existing domestic tenancies only. Unless the tenant or the landlord has already served a notice on the other party requesting a new tenancy or terminating the existing tenancy pursuant to

the existing Ordinance before amendment by the Bill, they can only terminate the existing tenancy by serving the newly proposed transitional termination notice after passage of the Bill.

Details concerning the service of the transitional termination notice will be set out in the new clauses 5A and 5B to be proposed later. The transitional arrangement seeks to protect the existing tenants by ensuring that their landlords will serve a termination notice no less than 12 months before the intended repossession date to inform them of the repossession intent so that they will have sufficient time to make appropriate arrangements. Besides, the amendment to clause 5 also stipulates that on and after the commencement date of the Ordinance, the arrangement of transitional termination notice will not be applicable if the parties to the tenancy have changed any terms of the tenancy or have reached any agreement on the notice period for terminating the tenancy. This measure can ensure that both parties can terminate the existing tenancy through mutual agreement without being subject to the transitional arrangement. The amendment also stipulates that the transitional arrangement will not affect the tenancy *per se*, nor will it affect any right of forfeiture conferred on a landlord, or any right of surrender or early termination conferred on a tenant by the existing Ordinance.

Moreover, the amendment also stipulates that the terms and conditions (including the rent) of the existing tenancies will continue to be effective before termination in pursuance of the relevant transitional arrangement in order to minimize landlord and tenant disputes over the rent during the transitional period.

Besides, the proposed amendment also provides that the protection to the tenant under the transitional arrangement will be extended to the widow, widower, mother, father or any daughter or son over the age of 18 of the tenant who resides with the tenant at the time of the tenant's death. Regarding this proposal, Mr Howard YOUNG, Mr Albert HO and Mr James TO will move respective amendments. Mr Howard YOUNG proposes that the protection to the tenant under the transitional arrangement be extended to the widow, widower, father, mother or any sibling, daughter or son over the age of 18 of the tenant who resides with the tenant at the time of the tenant's death. Compared with the scope of protection under the Government's proposed amendment, the scope of protection under his proposal has been extended to the siblings of the tenant who reside with the tenant at the time of the tenant's death. Mr Albert HO has further extended the scope of protection to the personal representative over the

age of 18 who resides with the tenant at the time of the tenant's death. Mr James TO has even further extended the scope of protection to any person aged over 18 who resides with the tenant at the time of the tenant's death.

Regarding these proposals, I would like to point out one basic principle, that is, the scope of protection proposed by the Government is determined in accordance with the scope of protection afforded by security of tenure under the existing legislation. The main purpose of the proposal is to extend the same protection enjoyed by the deceased tenant to the blood relations or next of kin of the tenant who reside with the tenant at the time of the tenant's death. They include the widow, widower, father, mother or any daughter or son over the age of 18 of the tenant. Such a protection system has been proven without any problem so far. Neither is there any case indicating that people other than the blood relations of the tenant need the security of tenure, let alone the protection under the transitional arrangement.

In view of the fact that the protection is only a transitional arrangement, we consider it unnecessary to extend the scope of protection to any person or the personal representative who resides with the tenant. This is because these people may not be the blood relations of the tenant. They may just be, for instance, the tenant's relatives and friends on visit who happen to reside with the tenant at the time of the tenant's death. If protection under the transitional arrangement is extended to them, it will be unfair to the landlords. Furthermore, if the scope of protection is enlarged to such an extent, it may give rise to more arguments or disputes about the protection of the beneficiary's right to succeed to the deceased's interests. The Government therefore opposes all these proposals.

Thank you, Madam Chairman.

Proposed amendment

Clause 5 (see Annex I)

CHAIRMAN (in Cantonese): I will call upon Mr Howard YOUNG, Mr Albert HO and Mr James TO to speak on the amendment moved by the Secretary for Housing, Planning and Lands as well as their respective amendments, in that order. However, they may not move their respective amendments at this stage.

Whether each of them may later move his amendment will depend on the Committee's decision on the amendment already moved. If the Committee has agreed on one party's amendment, that will by implication mean that the remaining parties may not move their respective amendments.

MR HOWARD YOUNG (in Cantonese): Madam Chairman, as the Secretary has said, the aim of our amendment is to extend the protection to a sibling of the tenant over 18 years of age. To address the situation in which a tenant unfortunately passes away, the Liberal Party considers it more reasonable to extend the benefits and protection provided in the transitional arrangement to a sibling who resides with the tenant at the time of the tenant's death. Furthermore, unlike the other examples cited by the Secretary just now, there should be little difficulty in defining a sibling, nor will any confusion arise in enforcement. This is the reason for us proposing this amendment.

MR ALBERT HO (in Cantonese): Madam Chairman, my amendment seeks to further expand the scope of Mr Howard YOUNG's amendment to include personal representatives. The situation is very simple. If someone lives with a person who has entered into a tenancy, and their relationship — given that they do not have any blood relationship — is so close that the former can handle the estate of the latter, then I do not see why the former cannot continue to enjoy security of tenure. As we all know, the application of this amendment is very limited, so I do not intend to dwell on this any further. I only want to raise one more point, that is, we must not fear so much about any dispute that might arise — since estates are involved — that people should be even deprived of the rights to which they are entitled. Therefore, I think this amendment is reasonable. Thank you.

MR JAMES TO (in Cantonese): Madam Chairman, the application of my amendment is in fact very limited, since this is only an arrangement for the transitional period. However, I can tell Members that as far as the provisions in this part are concerned, be it the amendment proposed by Mr Howard YOUNG, Mr Albert HO or me, they are all attributable to me and they are all my doing. *(Laughter)* This is because in the Bills Committee, Members of different factions and even independent Members all could not understand why Mr Howard YOUNG proposed his amendment. Siblings of course have blood relationships

(this is what I said at that time), therefore, the Secretary cannot say that they just happen to live together. It would also be easy to determine if they have blood relationships.

However, at that time, the scenario of entrusting orphans suddenly occurred to me. For example, a small child below 18 years of age may be living with the tenant in a flat before the tenant's death. As suggested by Mr Andrew WONG, a sworn brother of a male tenant, or an intimate female friend of a female tenant who abstains from marriage may also be living in the flat. Therefore, the original tenant may use his or her estate to entrust the orphan to another person, that is, to hand over the custody, guardianship, and so on, of the child to the intimate female friend. The relationship may not necessarily be homosexual in nature, of course, anything is possible and it may also be homosexual in nature. Anyway, the resultant scenario is entrusting an orphan. Of course, during the transitional period, there is no reason not to provide protection to the child and instances of abuse will be rare as there are few such cases. The original tenant may have made a will, thereby clearly specifying that the orphan be entrusted. However, there may also be circumstances in which nobody has to be entrusted because the original tenant did not leave behind any orphan (since the tenant does not have any offspring), but the person who lives with her is, all in all, an intimate female friend of the tenant and both of them have abstained from marriage, for example, they may be amahs. This kind of people still exists nowadays. In view of this, it is better to address such a situation by introducing a provision to cover any person residing with the tenant. As a result, there are three variations to this provision.

Eventually, I managed to persuade some Members. Some Honourable colleagues prefer the protection to cover siblings, others prefer that legal representatives be included in addition to siblings, whereas I became the rearguard, suggesting that any person residing with the tenant be included.

Therefore, no matter who is included, I think all of us can take a look or consider the views of the Secretary to determine if this will give rise to any abuse. Alternatively, in view of the small number of cases that will occur, is it possible for us to be a little more generous and allow this chapter on tenancy control to end on a happier note? During this final chapter, is it possible to enable some odd cases, that is, households with rather strange or special combinations, that is, tenants with non-nucleus families to have a more carefree transitional period?

According to the proposal of the Government, the protection offered by the transitional period will last one year. I hope we can be more generous.

CHAIRMAN (in Cantonese): Members may now debate the amendment moved by the Secretary for Housing, Planning and Lands as well as the respective amendments by Mr Howard YOUNG, Mr Albert HO and Mr James TO.

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

MR IP KWOK-HIM (in Cantonese): Madam Chairman, after the elaborations given by the Secretary and the three Members, we can see that this is a temporary arrangement in the transitional period. From the Secretary, through to Mr Howard YOUNG, Mr Albert HO and Mr James TO, all of them have been extending the coverage of the provision. The view of the DAB is that since this is a transitional arrangement, we do not think it necessary to be unduly insistent on the stringency of the restrictions. Therefore, we consider all four amendments acceptable. Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, Mr Howard YOUNG, do you wish to speak again?

MR HOWARD YOUNG (in Cantonese): Madam Chairman, when I spoke earlier, Mr James TO had not put forward his views on that part yet, so now I would like to speak on those views of his. As for Mr James TO's proposal to extend the protection to everyone, we feel that it is difficult to define and so we are unable to accept that part of his amendment. However, I also notice that the scope proposed by the Secretary originally is that which we support, but technically speaking, we cannot propose an amendment if we do not oppose the Secretary's proposal. So later on we cannot lend our support to the Secretary's

proposal because our amendment will include all the contents. Should this be the way we see it? That is how I see it.

CHAIRMAN (in Cantonese): Mr Albert HO, do you wish to speak again?

(Mr Albert HO indicated that he did not wish to speak)

CHAIRMAN (in Cantonese): Mr James TO, do you wish to speak again?

(Mr James TO indicated that he did not wish to speak)

CHAIRMAN (in Cantonese): Secretary for Housing, Planning and Lands, do you wish to speak again?

(The Secretary for Housing, Planning and Lands indicated that he did not wish to speak)

CHAIRMAN (in Cantonese): Before I put the question to Members on the amendment moved by the Secretary for Housing, Planning and Lands, I would like to remind them that should the amendment moved by the Secretary for Housing, Planning and Lands be passed, then Mr Howard YOUNG, Mr Albert HO and Mr James TO may not move their respective amendments to clause 5.

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.

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Which Member has not voted? Please check your votes. Dr Raymond HO, have you decided not to vote?

DR RAYMOND HO (in Cantonese): I have pressed the button to vote.

CHAIRMAN (in Cantonese): You have pressed the button to vote? But I do not see your vote on the computer screen.

DR RAYMOND HO (in Cantonese): I have certainly voted.

CHAIRMAN (in Cantonese): Now I can see it. *(Laughter)* I need some time to see if there are other Members who have not yet voted.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall stop and the results will be displayed.

Dr David CHU, Dr Raymond HO, Dr Eric LI, Mr NG Leung-sing, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr Ambrose LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Wong-fat, Ms Miriam LAU, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Mr Tommy CHEUNG and Mr WONG Sing-chi voted against the amendment.

THE CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that there were 47 Members present, 25 were in favour of the amendment and 21 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the amendment was carried.

CHAIRMAN (in Cantonese): As the amendment moved by the Secretary for Housing, Planning and Lands has been passed, Mr Howard YOUNG, Mr Albert HO and Mr James TO may not move their respective amendments to clause 5, as it is inconsistent with the decision already taken by the Committee.

CLERK (in Cantonese): Clause 5 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 5A Transitional termination notice.

CHAIRMAN (in Cantonese): The Secretary for Housing, Planning and Lands and Mr Howard YOUNG have separately given notice to move to add new clause 5A to the Bill.

Committee will now proceed to a joint debate. I now first call upon the Secretary for Housing, Planning and Lands to move the Second Reading of his new clause 5A.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I move that new clause 5A, as set out in the paper circularized to Members, be read the Second time.

As I have said earlier, this new provision seeks to stipulate the various requirements in relation to the transitional termination notice. Members had also mentioned this new provision when the amended clause 5 was passed. Pursuant to the new clause 5A, a transitional termination notice issued by the landlord should be served on the tenant no less than 12 months before the effective date and may not be served earlier than the last day of the period of the tenancy term. This is to ensure that the tenant will have at least 12 months' time to make relocation arrangements. On the other hand, a transitional termination notice issued by the tenant should be served no less than one month before the day on which it is to take effect.

Clause 5A also stipulates that the requirement of a transitional termination notice also applies to sub-tenancies. On the basis of this new clause, Mr Howard YOUNG proposes that the period for serving such notice by the landlord of premises of which the rateable value does not exceed \$36,000 be extended from 12 months to 36 months to the effect that after removal of security of tenure, the tenants of existing tenancies will still have security of tenure for not less than three years. We oppose the relevant proposal. I have to reiterate that the proposed transitional arrangement is to enable the tenants of existing domestic tenancies to have sufficient time to adapt to legislative changes and make relocation arrangements if they have to move out of their premises due to repossession by the landlords. In our opinion, to require that the landlords have to give the tenants a notice period of no less than 12 months can serve such purpose. If the notice is extended to 36 months, it is tantamount to a mandatory extension of the existing tenancies by three years upon tenancy expiry. As far as a transitional arrangement is concerned, this is unnecessary.

Similar to Mr Albert HO's proposal, Mr Howard YOUNG's proposal is extremely unfair to landlords of tenements of low rateable value. If the proposal is endorsed, it would greatly extend the time required for repossession of premises after tenancy expiry. As I have said earlier, small landlords are more vulnerable to the disturbance of problem tenants and are more in need of the restoration of freedom to change tenants than landlords of tenements in the upper-end market. Mr Howard YOUNG's proposal has divided tenants and landlords as a whole arbitrarily into two categories, which is tantamount to social division. Furthermore, we do not see any justification that tenants of tenements with a low rental value need a longer notice period while tenants of premises with a high rental value require a shorter one. Besides, Mr Howard YOUNG's proposal will also distort the operation of the rental market. Under his proposal, the rent should remain at the original level for at least 36 months after the landlords have served the notice. In other words, the rent of premises with a rateable value below \$36,000 will be frozen at the existing level for the next three years. From the perspective of the landlords, this will constitute certain financial loss.

In respect of enforcement, it is impractical for the landlords to serve a termination notice on the tenants three years in advance. The tenants might have forgotten the termination date specified on the notice during that period. Unnecessary disputes on whether notice has been served or received may arise between parties to the contract. I would like to point out that it is the Government's responsibility to provide housing assistance to the needy, not the landlords of private tenements, particularly owners of properties at certain rental value. The Government has now provided sufficient public rental housing (PRH) to the needy. For those who do not meet the eligibility criteria for PRH, we will actively review whether more assistance can be provided to them.

Finally, I have to emphasize that an owners' association has time and again expressed their concern and objection to Mr YOUNG's proposal to the Government as well as the Legislative Council. They opine that since domestic tenancies generally last for two years, the term of such tenancies will in effect become five years in addition to the three years proposed by Mr YOUNG. During these additional three years, the landlords cannot change the rent or the original terms and conditions of the tenancies even though the additional period is much longer the original term. So, from their perspective, such arrangement

is unreasonable. On the basis of these justifications, I urge Members to support the new clause 5A proposed by the Government.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I will call upon Mr Howard YOUNG to speak on the motion moved by the Secretary for Housing, Planning and Lands as well as his proposed new clause 5A. I will ask him to move the Second Reading of his new clause 5A only if the Secretary for Housing, Planning and Lands' motion is negated. If the Secretary for Housing, Planning and Lands' motion is agreed, that will by implication mean that Mr Howard YOUNG may not move the Second Reading of his new clause 5A.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the Secretary for Housing, Planning and Lands' new clause 5A be read the Second time.

MR HOWARD YOUNG (in Cantonese): Madam Chairman, I have explained during the Second Reading why we think that those tenants paying a rent of less than \$3,000 a month should be given assistance. I have said it over once and Mr James TIEN has spoken on it. At first, I thought that as these views have all been mentioned and that the issue of "bad law" is also clarified, there would not be any need to repeat them. However, the Secretary has mentioned the view of causing social division again and I really do not know whether or not the Secretary is trying to touch a nerve in some people or to provoke a debate. I have pointed out earlier that insofar as this kind of tenancy agreements is concerned, there are only some 30 000 of it in Hong Kong and as we have worked out, only about 10% would actually be affected. As the number is so small, how can we say that it will lead to social division? I wonder if views like these are found because the speech was written by someone and the Secretary only read from the script.

However, Madam Chairman, as I have said, I have talked about all the arguments once and so I would only repeat them in the concluding speech later. The reason for the Liberal Party proposing this amendment is we think that these

people are really those from the very bottom of the lowest stratum in society and it is only out of our conscience that we think they should be helped. A colleague of mine from the Liberal Party has put it correctly: We should say "yes" when there is a need for it and "no" when there is a need for it. In all that we do, it is only for the good of Hong Kong that we mean and nothing else.

MR IP KWOK-HIM (in Cantonese): Madam Chairman, according to information from the Rating and Valuation Department (RVD), there are 15 000 vacant flats on the market asking for a monthly rent of less than \$3,000. Even if some people have a special feeling for individual communities, we do not think that they would run into any particular difficulties. Recently, a friend of mine has leased a flat of some 300 sq ft for \$2,000 a month.

The amendment proposed by the Liberal Party suggests that the some 37 500 flats currently with a rateable value of less than \$3,000 per month should have the security of tenure removed only three years after the expiry of the existing tenancy agreements. If it is said that landlords with properties fetching a rent less than \$5,000 a month is miserable, then those small landlords with properties fetching a rent of less than \$3,000 a month could be considered tragic. The RVD assesses the rateable value of residential units. If a unit is estimated to have a rateable value of less than \$3,000, then in most if not all cases it will be one in a tenement building with an age of over 20 years or even 40 years. Most of the owners of these properties are old people and what they have done is to save up and buy a flat in the hope that they can live on the rental income when they are old. As they have properties and collect rents, they cannot apply for Comprehensive Social Security Assistance and so they lead a very frugal life, to the extent of even consuming a tin of food for a few meals. Recently, the Government attaches great importance to the maintenance and repairs of buildings and orders on fire protection and building maintenance and repairs are often issued. These exert great pressure on these old people and they often have to spend hundreds of dollars in compliance. As a result, they are thrown into a miserable situation. Even if they want to sell their properties, it would be difficult as the properties are leased. If they are to wait for another three years, I am afraid these properties would become their estate. Would it not be heartless of us if these old people are deprived of the right to dispose of their only assets — the flats which they have bought with money painstakingly saved up through decades of hard work and frugality? As legislators, Members of the

Legislative Council, should we do this to penalize hard work and frugality, to the extent that these old people cannot lead a peaceful life in the sunset of their lives?

The amendment proposed by the Government suggests giving tenants one year to relocate while in the meantime the small landlords cannot increase the rents or repossess their properties. Such an amendment has taken into account the impact brought about by the amendment on the landlords. But let us not forget that these flats are properties which small landlords bought with the money they have made with years of hard work, and the right to protection of private properties should not be the exclusive right enjoyed by the giant consortia. Should properties with a rateable value of less than \$3,000 or \$5,000 not be given the same kind of protection as the luxurious flats?

A balance must be struck between landlords and tenants indeed. I have heard many different views actually. Representatives of tenants have come to see me and voiced many of their worries, fears and opinions. I think they are justified in thinking that the Government should compensate them for the impact which this Bill exerts on them, including expenses on furnishing and purchase of furniture. They have put forward many demands in this respect. At the same time, many old people who are landlords have also wept and complained before me, saying that though they have properties and collect rents, their voice is not heard, their words are neglected and they are no match for other people. Their situation is pitiful. So on this question of who really belongs to the underprivileged, we should examine case by case before we can get a final answer.

The DAB will never try to please anyone. We will look at the facts. We know that with the existing housing policy and the supply of properties for lease in the private rental market, there are no grounds to justify the continued existence of tenancy control in any form. Therefore, as legislators we must not try to intrude into the market. For these small landlords who manage to own their properties through years of saving and frugality, we must not force them to shoulder the housing responsibilities of the tenants. If the housing needs of the underprivileged are to be met, efforts must be made in terms of housing policy and that would be a workable and more reasonable approach to adopt. That is also the Government's responsibility. So the DAB will oppose this amendment.

Thank you, Madam Chairman.

MS AUDREY EU (in Cantonese): Madam Chairman, besides the delineation of the rateable value (that is, whether the rateable value should be set at \$3,000 or \$5,000), a major difference between the amendments proposed by Mr Howard YOUNG and that by the Democratic Party is that, according to the security of tenure proposed in the amendment of the Democratic Party, the minimum security to landlords is that the tenants should pay the prevailing market rent. However, Mr Howard YOUNG's proposed amendment will have an effect that landlords who wish to repossess their properties cannot increase the rent within three years, since they have to serve a notice of termination on the tenant no less than three years before tenancy expiry, and the tenants will only have to pay the original rents during the three-year period. In fact, the three-year period is rather long. Generally, landlords will only sign a two-year tenancy with their tenants, so if they are required to serve a three-year notice on the tenants due to repossession of the properties, they cannot increase the rents during the three-year period, and this will cause some troubles to some landlords.

Mr Howard YOUNG pointed out that only 35 000 tenants would be affected since the amendment had set the rateable value at \$3,000. He also pointed out that about 70% of these tenants would move out within two years. Just because according to the current rules of the game, the tenants should at least pay the prevailing market rent, but in case the landlords wish to repossess their properties, they have to give a three-year notice, and if the rents rise, the tenants will definitely not move out, because a three-year notice should be given to them even if the landlord wish them to move out. In this case, it is possible that 70% of them would not move out due to this reason within two years. Given the protection, tenants may stay on and it is possible that this period is longer than the term of the tenancy, and so accordingly, the existing legislation does not apply.

Even if it turns out as he said, that is, after this part is deleted, 10% of these people would stay, Madam Chairman, besides those tenants, these 10% of landlords are those who needed protection most. Since those 10% tenants will stay, they are probably those who cannot make both ends meet, some of them even have to delay the rent payment due to short-term cash-flow problems, and some even cannot afford to pay the rents. Just now Mr IP Kwok-him also mentioned that those owners were probably elderly people who earned a very low income or even had no income at all, and they had to rely on the rents to make ends meet. They have used their lifetime savings to purchase a flat and to rent it out, so if the tenant pays no rents or delays payment, they still have

difficulty in driving the tenant away, and they cannot afford hiring a lawyer to drive the tenant away. In this case, should the landlord share the burden just because the tenant's situation is terrible? If landlords wish to drive tenants away or terminates the tenancy, should they be considered unscrupulous landlords? In this case, Madam Chairman, I think we should look at the matter from the other way around. What we may have to consider is not the problem about those 10% tenants, but how we should help those landlords who are being affected. I agree with what Mr IP Kwok-him has said just now, that it is an issue about housing policy instead of rent dispute, and we should not pass the problem onto those 10% landlords.

Madam Chairman, the difficulty about passing a piece of legislation is that it should be applicable to everybody. Very often our focus is on those tenants who are very miserable and being affected, but we should not ask everybody to accommodate them because of these 10% tenants are affected. There is a saying in English, "hard cases make bad law". Very often, when we come across people who need special assistance or they are particularly poor or their cases are exceptionally sad, we will distort and change our principle and laws for them, in order to accommodate these special cases, thus setting a bad precedent. This is the origin of that expression in English.

We also understand that it is difficult to take care of all issues. The passage of the legislation will affect some tenants who have difficulties, but in that case, we also wish that we can adhere to a major principle, that is, we may give assistance to those needy people by way of dealing with them as individual cases. We hope the Government will implement the policy and take care of the interest of all parties concerned, instead of steering left and steering right as Mr Frederick FUNG said just now. I hope all government departments and legislators will help all tenants who are in need.

With these remarks, Madam Chairman, I cannot support the amendment proposed by the Liberal Party.

MR JAMES TIEN (in Cantonese): Madam Chairman, we have a feeling that the tenancy control law used to control everything, regardless of whether the premises are high, medium or low priced. All premises were subject to control. The Government's proposal this time is to remove the restrictions while a notice period of one month is given. This is the original view held by the Government.

If the Government proposes to make any change, should the one-month notice period be changed into one-year and should this requirement be equally applied to flats with a low monthly rental of \$3,000, those with a medium monthly rental of \$30,000 or the most expensive ones on the Peak with a monthly rental of \$300,000?

We would think what truly makes a difference should be those flats fetching a high rent. The owners of these premises may have leased their properties to some senior executives from the HSBC. Of course, the HSBC is financially much better off than these landlords. So should the Government disregard these flats? Is there a need for the Government to change the original one-month notice period to one-year for no reason? If any change is to be made, why not stop imposing the one-month notice requirement across the board, and as Members are opposed to it, why not change the notice period for all premises to one-year?

Madam Chairman, the Government at first proposed a one-month notice period — the officials are looking at me now and they wonder what I am going to talk about — the initial proposal of the Government was that the commencement was one month after enactment, then it was changed from one month to one year. In our opinion, there is no need to change the commencement of the removal of tenancy control for all the 220 000 buildings in Hong Kong from one month to one year, for the tenants may be the HSBC while the landlord may be a civil servant. On the other hand, for flats occupied by people in the lowest strata of society, then we will have to look at the circumstances. Now we are talking about those flats with a monthly rent of less than \$3,000 and there are some 35 000 such flats around. The figures are provided by the Government. The Government also points out that most of the tenants of these flats will move out within two years, that is, after living in the premises for 10-odd months. What are the reasons for tenants moving out of their own accord? The existing tenancy control protection cannot actually protect the landlords. The tenants may move out because their place of work may change. If there is only about 10% of the tenants who have leased the flats for a few years, that would be about some 3 000 flats if we take the total number to be 35 000. So when the number of flats affected is just some 3 000, how can this cause any confusion in Hong Kong at all?

Mr IP Kwok-him is also a member of the Bills Committee. He makes a simple assumption that the small landlords must be old persons and they belong

to the pitiful and wailing type while the tenants must be rich people. Honestly, the Liberal Party does not know much about these so-called miserable landlords or penniless tenants. In our opinion, these two kinds of people could well be some less affluent people in society. On the surface, those landlords seem to be richer or having more assets than the tenants. I would imagine the pitiful and wailing type to be those old people who are tenants paying a monthly rent of \$3,000, rather than those landlords collecting a monthly rent of \$3,000.

Should we just help this small minority? Moreover, we are not proposing something like what Mr Albert HO has said, that exemption should be given to flats with a monthly rent of \$5,000 or below. What we are urging is to give three more years to tenants before the removal of tenancy control will come into force. It remains, of course, that Ms Audrey EU, the Chairman of the Bills Committee, knows very well about these matters, that is, no rent increase for three years. But recently rents are not rising but falling. This arrangement would be beneficial to the landlords, for the existing tenancies can remain in force. What happens in the rental market now is that landlords are reducing the rents to attract tenants. I am talking about flats for the low-income groups, not the commercial premises in some shopping malls or office buildings.

So during this three-year period, all the existing arrangements in the tenancy agreements shall remain unchanged. Rents cannot be increased or reduced. If rents cannot be reduced, the miserable landlords may be happier for if the prevailing market rents fall, the \$3,000 he gets every month may drop to \$2,500. If that happens, he would be caught in yet greater misery. On the question of whether or not rents can be increased as the notice period is extended from one-year to three-year, we noticed at that time that this was not crucial. On the contrary, the Government proposes to change the period from one month to one year and within this specified period, no increase in rents can be made even when the tenancy agreements expire. What we are doing is only to add two more years to the Government's proposed time limit. What then should be done when, according to the Government's proposal, no rent can be increased for these premises?

On the most important principle, the Secretary has pointed out that the law was enacted 23 years ago in 1981 and it is now 2004. Since there were already so many miserable landlords 23 years ago and since these pitiful old ladies and gentlemen have been weeping and wailing for so many years, 23 years to be

exact, so when we propose to increase the commencement date from one year to three years after enactment, would things turn out so badly for them? Madam Chairman, we do not know. But we would expect that things will not be so bad as some Members or officials would think. Thank you, Madam Chairman.

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

MS AUDREY EU (in Cantonese): Madam Chairman, in response to Mr James TIEN's question as to whether the landlords will benefit if the rent decreases, I would like to tell him the answer. Madam Chairman, it is very simple. If the rent has gone down, the tenants can quit at any time by giving the other party one month's notice.

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

MR ALBERT HO (in Cantonese): Madam Chairman, let me talk about the Government's amendment first. In any case, the present amendment is an improvement on the original provision of the Bill. Of course, I should in principle support this amendment. However, after perusing the amendment of Mr Howard YOUNG from the Liberal Party, later I will say I support his amendment on the basis of some justifications.

Restricted by the voting sequence, we will vote on the Government's amendment first. If it is passed, we cannot vote on Mr Howard YOUNG's amendment. So, I have to oppose the Government's amendment.

According to Mr Howard YOUNG's amendment, a one-off grace period of three years will be provided to the poorest, that is, tenants with the lowest income, during the transitional period. However, please remember that this measure is one-off. After the enactment of the Bill, any new tenancy with a rental value of \$3,000 or below will not be affected. So, this is a so-called one-off grace period for these people.

Mr James TIEN has just made a very good speech. The provision has been stipulated in the law book for so many years and the Government has

created agony and unfairness for two to three decades. So, will it create social division, unfairness and injustice by offering these tenants, who may all be anguished elderly people, some more breathing space in one go? I am not going to elaborate on this because I think Mr James TIEN has already made a very good speech and a time-consuming debate in this regard is unnecessary. However, I just want to point out that since my amendment has been negated, we may be faced with total relaxation of tenancy control. Under such circumstances, what I can do is to strive for some more breathing space as a one-off measure for tenants who do not own any asset and are worse-off in comparison with the landlords who at least own a residential unit.

Even though Mr IP Kwok-him has said that the elderly people are in agony, I can hardly understand why he said that the landlords were unable to collect the rents. Why can they not collect the rents? During these three years, they can at least receive the rents. If they want to repossess the premises for self-occupation, they can do so because it is provided in the law that the landlords can repossess the premises for self-occupation during the three-year period. They may have been subjected to tenancy control for two to three decades. If so, why is it that they will still suffer a lot if they can repossess their premises three years later? In comparison with the tenants who have been residing in a residential unit for 20 years and are now subject to eviction, who are more pitiful?

So, in a nutshell, I actually do not want to say whether the tenants or the landlords are more pitiful. Neither do I wish to put my argument on this basis. I do not think this is desirable. From the beginning to the end, I feel that the Government wants to change the *status quo*. Anyone who wishes to change the *status quo* has to raise very strong justifications to explain why such changes will be beneficial to the community or to some people, or they will lead to a result which will generally be more equitable. Up till now, I do not see how the Government can discharge such responsibilities, nor have I been told that such a change is good. At present, I only hope that the *status quo* can be maintained partially. Failing that, I only hope that the *status quo* can be maintained longer so that the poorest can have more breathing space. And that is it. So, if someone says this is social division, it is really an overstatement.

In my opinion, even though the effect of the Liberal Party's amendment is only very partial and very short-term, which contains a one-off arrangement, it is

still better than nothing. So, I hope Members will support Mr Howard YOUNG's amendment.

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

MR IP KWOK-HIM (in Cantonese): Madam Chairman, I would like to make a brief response. When I spoke earlier, I stressed that as to who belonged to the underprivileged, it was still unknown. Has this Bill created social division? I do not think so. Instead, it has only reflected some realistic situations to be encountered by both sides. Just now, Mr Albert HO queried if the landlords, who at least owned a residential unit which could generate rental income for them, would even be worse off than those elderly people who wept in agony. The answer is in the affirmative. It is because many people's living for the rest of their lives is supported by the rental income generated from a residential unit. Their living is entirely dependent on the rental income. As for the tenants, if some of them really live in abject poverty, they are actually eligible for public rental housing. So, these situations are common. The tenants are not necessarily the underprivileged, neither are the landlords. In fact, as to who belong to the underprivileged, it depends on the actual situation. Indeed, it depends on the actual situation. In my opinion, the DAB cannot support Mr Howard YOUNG's amendment precisely because in our community, both the tenants and the landlords of premises with a rental value below \$3,000 per month can be said to be in the lower stratum of society. As both of them are faced with a lot of difficulties, both of them are the underprivileged. Thank you, Madam Chairman.

MR ALBERT CHAN (in Cantonese): Madam Chairman, it is not at all meaningful to differentiate who are the underprivileged. As a matter of fact, both the tenants and the landlords are the underprivileged, and both of them are poor relatives to each other. Both the landlords and the tenants of old tenements are the victims in the capitalist society of Hong Kong where the officials and the businessmen collude with each other, with the Hong Kong Government being biased in favour of the big consortia. So, when facing these two groups of poor relatives, we find it extremely difficult to decide whom should be given more assistance.

I remember in the '80s when I first became a representative council member, I had received many complaints and taken many actions to help the truly underprivileged to fight for their interests. At that time, residents living in old tenements had to face huge rental increases by unscrupulous landlords. Meanwhile, triads were deployed to force the landlords of old tenements to move out because speculation on these premises was very intense, which were expected to have a high appreciation potential by big consortia. At that time, Mr Abraham SHEK helped these consortia in the course of acquisition for redevelopment through the Land Development Corporation (LDC). Many victims under such system had indeed encountered many problems. Having said that, Mr Abraham SHEK had provided a lot of assistance to the underprivileged so that they could obtain quite reasonable compensations, particularly the landlords in the Tsuen Wan "Seven Streets" Redevelopment Project. They were very grateful to Mr Abraham SHEK who, on behalf of the LDC, had rendered a lot of assistance to many tenants and landlords. Mr Abraham SHEK does not need to give a speech on this because I have already reconciled the divergence for him. (*Laughter*)

Madam Chairman, during the past seven years, I have organized many campaigns. In 1998, I organized the Campaign for the Aggrieved Property Owners which later became the Negative Equity Owners Alliance. A few years ago, I also set up the Owners' Right Association and now I am still its chairman. During the past seven years, I have come into contact with many landlords, in particular I have heard the bitter complaints of the landlords of old tenements because they were faced with lots of difficulties. Of course, I absolutely understand the plight of another group of underprivileged, that is, tenants living in the old tenements. However, if you ask me today, the last day of June in 2004, on the eve of the 1 July march to celebrate the reunification of Hong Kong with China, to decide, among these two groups of poor relatives, which group should be helped, I also feel that it is a dilemma.

Relatively speaking, however, I think landlords of old tenements are in greater difficulties. Let me explain it. Now everybody says that property prices have bounced back and even gone up. But these are the luxurious flats and the new flats, rather than the old tenements. It is still very difficult for the landlords of the latter to sell their properties. In respect of the ceiling of mortgage loans, it is around 90% for new flats and many consortia can offer this preferential rate. As for the old tenements, the mortgage ceiling is still 70%. However, in most cases the valuation is only 50% of the property price. It is probably inconceivable that the value of old tenements is being underestimated to

such an extent. If one wishes to apply for a loan to finance the purchase of an old tenement, the bank will make life difficult. It will be even more difficult if one wishes to sell his residential unit in an old building. However, the Government still offers a lot of favours to big consortia so that they can sell their new flats. Meanwhile it turns a deaf ear to the plight of the old tenement landlords. Even worse, the Government "drops stones on the man who has fallen into a well". The landlords of old tenements nurse a grievance because they will receive repair orders or maintenance orders. Those who have received clearance orders are hit even harder. In some old tenements, additional space was provided to the tenants by erecting some unauthorized building structures some 20 years ago. But in recent days, repair orders are so numerous that they are just like calls from hell. Being faced with difficulties in selling their properties, sliding rentals and the requirements to comply with the maintenance orders and repair orders, the old tenement landlords are at a loss as to what to do. They would have no tears though they feel like weeping, and they have nowhere to turn to. Who can render assistance to them?

Even though I have come into contact with many of these landlords recently, I have no idea how to deal with their problem. What I can do is to advise them to borrow money from the Government, telling them that even though they might be unable to repay the loan, the Government would probably not demand repayment. I have really given them such advice. The Buildings Department also said in private, "Advise them to apply for loans from the Government. If they are unable to repay, the Government will not demand repayment or declare them bankrupt. The Government will not resort to such poor measure." However, when asked for a written assurance, the Government is certainly reluctant to do so. And some of these landlords are simple and honest elderly people. They said they did not want to run into debts. If they did, they did not know how to deal with them after their death. So, they are faced with difficulties. If the opportunity arises, Secretary Michael SUEN should meet these landlords in order to understand their predicament. He will then understand the difficulties of these people who do not benefit from the "SUEN's Nine Strokes" although they live under the powers of the Government and the influence of Secretary Michael SUEN. Having said that, I have to make it clear that I support today's motion in view of the fact that the Government opposes all amendments.

I had helped many people to face such situations in the past. So far, I have worked in the Legislative Council for many years. In the past, I cast my

vote unhesitatingly no matter I opposed the Government's motion or any other motion. But today, I have to make a painful choice when facing these two groups of poor relatives who belong to the underprivileged. This is really very painful. Having said that, I have to make a choice. Today, I will oppose the amendment. I hope these two groups of poor relatives will not blame each other because it is tragic if they share the same adversity. I hope those in power, the Government and Secretary Michael SUEN, having heard my speech today, will help these two groups of poor relatives. I hope they will help the tenants living in old tenements to improve their living environment and the landlords of these premises to resolve the difficulties just mentioned by me. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Honourable Members, it is almost 9.30 pm. I am prepared to adjourn the Council until 9 am tomorrow morning at around 10 pm. So, I have to apologize to the Secretary for the Environment, Transport and Works. Would you please come to the Legislative Council in the morning of the day after tomorrow.

MR ABRAHAM SHEK (in Cantonese): Originally, I did not really wish to discuss this amendment, I only wanted to cast my vote and then leave early. However, Mr Albert CHAN has mentioned my name, so I am compelled to speak.

Talking about experience, be they the miserable landlords or the tragic residents, I do have quite a lot of experience. With respect to learning a lesson from such experience, I do not think it is only Mr Albert CHAN alone who has had such experience. Both Mr IP Kwok-him and I have toiled day in and day out on that battlefield and so what Mr IP Kwok-him said is true, and so is Mr CHAN's. Then why is this Bill proposed today? It can be said that this move by the Government is correct. As Secretary Michael SUEN says, we must keep abreast of the times and see how we can solve the problems which exist in the old urban areas.

I am glad to see that Members from all political parties are lending their hands to help the miserable landlords and the people. This especially applies to the Liberal Party as it is speaking out on behalf of landlords or tenants with an

income of less than \$3,000. Our aim is to build a harmonious society. But where does the problem lie? This is a problem about housing and, as many Members have said earlier, it is the Government's responsibility. I can say that in the many years and in terms of housing policy, irrespective of whether it is about rehousing or demolition, the Government has made sure that no one is left without a home. For people to become homeless in Hong Kong is an outright impossibility. I think that in this respect, for the past 16 years, the Government has achieved this goal. It could do so in the past, it can do it now and it can likewise do it in the future. So the problems mentioned by Mr Howard YOUNG in proposing this amendment and the problems mentioned by Mr Albert HO in proposing his amendment are in fact not problems at all. For these can be solved by the Government. However, the most important thing is to change the part in this law on tenancy control so that both the small landlords and the big landlords are all treated fairly. That is the spirit of this legislative amendment.

Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, having listened to the speeches of all Members, I feel that they have spoken from the bottom of their heart. This is a dilemma, and a matter of choice. Members have spoken intelligently on this issue with views on both aspects being fully elaborated, truthfully demonstrating their knowledge of the essence of the problem. Yet, we still have to make a choice.

In fact, the Bills Committee has carefully and thoroughly deliberated on this issue. I think the dilemma is, as Mr Albert CHAN said, whether assistance should be provided to landlords who are financially straitened. As a matter of policy, we will not actively provide assistance to landlords because, to the understanding of many, landlords are asset owners. If the policy is inclined to offer assistance to them, it will not be generally acceptable. I have repeatedly mentioned that the Government is inclined to try its best to look after tenants who are really affected in this aspect. Just now Mr Abraham SHEK has also pointed out from his experience and viewpoint that the Government has basically done its

job in this aspect during the past 16 years. I believe most people will agree to his views.

Like I just said, if we are still faced with difficult problems in future, we will consider the problems and the resources available in the light of the prevailing situation. I would like to make a pledge that we will do our best to resolve the problems. I hope Members, after the very thorough discussion today, will have gained a fuller understanding of the issue and share our views that this is a comparatively desirable option. So, I hope Members will share our views and support our amendment.

MR JAMES TIEN (in Cantonese): Madam Chairman, there is one point that I wish to raise again, and it is about with whom the responsibility lies. The Government says that it seems we are shifting the responsibility onto the landlords if we draw the threshold at the monthly rent of \$3,000. The Secretary is of the view that it should be the Government's responsibility. If that is the case, I would like to put it the other way round and ask this: It has been 23 years now since this piece of legislation was enacted in 1981. In these 23 years, it has always been the landlords' responsibility. Why has it suddenly become the Government's responsibility?

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

(No Member indicated a wish to speak)

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

(The Secretary for Housing, Planning and Lands indicated that he did not wish to speak again)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the new clause 5A proposed by the Secretary for Housing, Planning and Lands be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TIEN rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TIEN has claimed a division. The division bell will ring for one minute.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Dr David CHU, Ms Cyd HO, Dr Raymond HO, Dr Eric LI, Mr NG Leung-sing, Miss Margaret NG, Mrs Selina CHOW, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mr Andrew WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr Ambrose LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Albert CHAN, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Dr YEUNG Sum, Ms Miriam LAU, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Mr Tommy CHEUNG, Mr WONG Sing-chi and Mr Frederick FUNG voted against the motion.

Mr Michael MAK abstained.

THE CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that there were 52 Members present, 31 were in favour of the motion, 19 against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CHAIRMAN (in Cantonese): As the motion on the Second Reading of the Secretary for Housing, Planning and Lands' new clause 5A has been passed, Mr Howard YOUNG may not move the Second Reading of his new clause 5A, as it is inconsistent with the decision already taken by the Committee.

CLERK (in Cantonese): New clause 5A.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I move that new clause 5A be added to the Bill.

Proposed addition

New clause 5A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the Secretary for Housing, Planning and Lands' new clause 5A 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.

(Members raised their hands)

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 5B Other transitional provisions.

CHAIRMAN (in Cantonese): The Secretary for Housing, Planning and Lands and Mr Howard YOUNG have separately given notice to move the addition of new clause 5B to the Bill. As the terms of their amendments are substantially the same, I shall invite only the Secretary for Housing, Planning and Lands to move his amendment.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I move that my new clause 5B, as printed on the paper circularized to Members, be read the Second time. Under the existing security of tenure regime, a landlord may repossess his property for self-occupation. To ensure the right of landlords in this respect, new clause 5B stipulates that under the transitional arrangement, a landlord who wants to repossess his property for self-occupation may apply to the Lands Tribunal for immediate repossession regardless of whether he has served a transitional termination notice or not. However, the landlord cannot let or assign the premises within 24 months after repossession. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 5B be read the Second time.

MR HOWARD YOUNG (in Cantonese): Madam Chairman, I need not repeat any points here for, as you have said, my amendment is in fact identical to the one moved by the Secretary.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 5B be read the Second time. 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 5B.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Madam Chairman, I move that new clause 5B be added to the Bill.

Proposed addition

New clause 5B (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 5B 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 that the Schedule be amended, as set out in the paper circularized to Members. The amendment seek to stipulate that the Lands Tribunal shall have jurisdiction to grant a landlord an order for repossession under circumstances such as the termination of a tenancy which may arise after enactment of the Bill, and the legal procedures and the forms required for application for such an order. Furthermore, a tenant should have no reason not to move out upon expiry of a tenancy when the security of tenure regime no longer exists. So, the amended Schedule will provide that the statutory period for a tenant to file an opposition to the landlord's application for repossession under such circumstances will be reduced from 17 days (Appendix 1) to seven days in order to expedite the repossession process. Thank you, Madam Chairman.

Proposed amendment

Schedule (see Annex I)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now propose 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 amendment 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 Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

**LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL
2003**

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

Landlord and Tenant (Consolidation) (Amendment) Bill 2003

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 Landlord and Tenant (Consolidation) (Amendment) Bill 2003 be read the Third time and do pass.

MR ALBERT HO (in Cantonese): Madam President, can I say a few words on our voting position?

PRESIDENT (in Cantonese): You may, Mr Albert HO, please.

MR ALBERT HO (in Cantonese): Madam President, I wish to clarify on behalf of the Democratic Party that we voted for the Second Reading of the Bill, but one of the most significant amendments proposed by us is the orderly removal of security of tenure in phases to enable us to assess the impact on society as a whole. This is a very important amendment, but since it has been negated, the Democratic Party will abstain from voting on the Bill's Third Reading.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary, you do not wish to speak again, do you?

(The Secretary for Housing, Planning and Lands indicated that he did not wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 be read the Third time and do pass. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Dr David CHU, Ms Cyd HO, Dr Raymond HO, Dr Eric LI, Mr NG Leung-sing, Miss Margaret NG, Mrs Selina CHOW, Mr CHAN

Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Andrew WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Ms Miriam LAU, Mr Ambrose LAU, Ms Emily LAU, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr Michael MAK, Mr Albert CHAN, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the motion.

Mr Frederick FUNG voted against the motion.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong and Mr WONG Sing-chi abstained.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that there were 49 Members present, 36 were in favour of the motion, one against it and 11 abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Landlord and Tenant (Consolidation) (Amendment) Bill 2003.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the Council until 9 am on 2 July 2004, the day after tomorrow.

Suspended accordingly at twelve minutes to Ten o'clock.

Annex I

LANDLORD AND TENANT
(CONSOLIDATION)(AMENDMENT) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Secretary for Housing,
Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
1	(a) In the heading by deleting " and commencement ". (b) By deleting subclause (2).
2	By deleting the definition "appointed day" and substituting - "commencement date" (生效日期) means the date on which this Ordinance is published in the Gazette;"
5	(a) In subclause (1) - (i) by deleting "appointed day" wherever it appears and substituting "commencement date"; (ii) by deleting "之前已存在的屬" and substituting "的前一天屬存在的". (b) By deleting subclause (2) and substituting - "(2) On and after the commencement date, a tenancy to which Part IV applies and which is in existence on the day before the commencement date, but in respect of which no notice or request has been given or made before the commencement date

ClauseAmendment Proposed

under section 119 or 119A of the principal Ordinance, may, subject to subsections (2B) and (2C), only be terminated by a transitional termination notice as provided for by section 5A."

(c) By adding -

"(2A) The term "the tenancy" (該租賃) as used in subsection (1)(c) and (d) does not include any new tenancy granted pursuant to Part IV on or after the commencement date.

(2B) The requirement in subsection (2) for a transitional termination notice in respect of a tenancy, and any such notice that has been issued in respect of a tenancy, ceases to apply if, on or after the commencement date -

(a) the parties to the tenancy -

(i) agree to some other period for notice of termination; or

(ii) alter any other term of the tenancy; or

(b) the tenancy is assigned to a new tenant.

(2C) Subsection (2) is without prejudice to -

(a) section 5B(1) as to the making of an order for possession;

ClauseAmendment Proposed

- (b) any right of forfeiture conferred on a landlord;
 - (c) any right of surrender or early termination conferred on a tenant.
- (2D)
 - (a) The benefits and protection afforded by this Part shall, in any tenancy to which it applies, be available to the widow, widower, mother, father or any daughter or son over the age of 18 years of the tenant where she or he was residing with the tenant at the time of the tenant's death; and, for the purposes of this Part, references to a tenant shall except in this subsection include a reference to such widow, widower, mother, father, daughter or son.
 - (b) Only one person mentioned in paragraph (a) shall be entitled to the benefits and protection of this Part at one time and, in default of agreement by those persons, the Tribunal shall nominate that person on such grounds as appears to it to be just and equitable.
 - (c) The benefits and protection afforded by this Part shall not be available to a personal

ClauseAmendment Proposed

representative of a deceased tenant or, notwithstanding any will or the law of succession on intestacy, any other person who is not a person mentioned in paragraph (a) as entitled to those benefits and that protection.

(2E) On and after the commencement date, a tenancy which would have terminated, but for the requirement in subsection (2) for a transitional termination notice, shall, until terminated by such a notice, but subject to section 5B, continue at the same rent and upon the same covenants, conditions and other terms of the original tenancy as are appropriate to a month to month tenancy."

(d) In subclause (3) -

- (i) by deleting "appointed day" and substituting "commencement date";
- (ii) by deleting "that day" and substituting "that date".

(e) In subclause (4) -

- (i) by deleting "appointed day" and substituting "commencement date";
- (ii) by deleting "that day" and substituting "that date".

(f) In subclause (5) -

ClauseAmendment Proposed

- (i) by deleting "appointed day" where it twice appears and substituting "commencement date";
 - (ii) by deleting "that day" and substituting "that date".
- (g) In subclause (6), by deleting "appointed day" and substituting "commencement date".

New

By adding immediately before Part 3 -

"5A. Transitional termination notice

(1) For the purpose of section 5(2), a "transitional termination notice" (過渡性終止通知書) means a written notice of termination of a tenancy served on or after the commencement date in accordance with this section.

(2) A transitional termination notice must be served -

(a) by a landlord, not less than 12 months;
or

(b) by a tenant, not less than 1 month,

before the day on which it is to take effect.

(3) A transitional termination notice may be served at any time on or after the commencement date, but -

(a) in respect of a tenancy for a fixed term which was in existence on the day before the commencement date, may not be

ClauseAmendment Proposed

served earlier than the last day of the term;

- (b) in respect of a periodic tenancy which was in existence on the day before the commencement date, may not be served earlier than the last day of the period of the tenancy current at the commencement date.

(4) A transitional termination notice may be served in any of the ways specified in section 119Y(1) of the principal Ordinance and subsection (2) of that section applies to such service.

(5) Where a transitional termination notice is served on a tenant, if -

- (a) the notice is in both Chinese and English; and
- (b) the notice is posted on 3 successive days upon the main door or entrance of the premises affected,

the notice shall take effect terminating also any sub-tenancies created out of the tenancy to which it relates.

(6) Subject to section 5(2B), a transitional termination notice duly served in respect of a tenancy in accordance with this section takes effect according to its terms, notwithstanding -

- (a) a change of landlord that does not create a new tenancy;

ClauseAmendment Proposed

- (b) any express or implied provision in the tenancy regarding the giving of notice of termination (subject to section 5(2C)(c) as to early termination); or
- (c) any other rule of law regarding the date on which a termination notice takes effect.

5B. Other transitional provisions

(1) During the continuance of a tenancy as described in section 5(2E), the Tribunal may, on the application of the landlord, make an order for possession of the premises to which the tenancy relates, or any part of them, notwithstanding that a transitional termination notice in respect of the premises has not been served, or has been served but has not expired, if the Tribunal is satisfied that the premises are, or that that part of them is, reasonably required by the landlord for occupation as a residence for himself, his father, his mother or any son or daughter of his over the age of 18.

(2) The Tribunal shall not make an order for possession under subsection (1) if -

- (a) in the case of a tenancy, the tenant satisfies the Tribunal that, in all the circumstances of the case, it would manifestly not be just and equitable to make the order; or
- (b) in the case of a sub-tenancy, the Tribunal is satisfied in all the circumstances of the case, including whether other accommodation is

ClauseAmendment Proposed

available for the principal tenant or the sub-tenant, greater hardship would be caused by making the order than by refusing it.

(3) If the Tribunal makes an order for possession under subsection (1) -

- (a) the Tribunal must specify the name of the person for whose occupation it is satisfied the premises are, or the part of the premises is, required;
- (b) subject to subsection (4), the landlord must not, for a period of 24 months after the date of the order, use, or allow the use of the premises, or the part of the premises, other than as a residence for the person specified under paragraph (a);
- (c) subject to subsection (4), the landlord must not, for a period of 24 months after the date of the order -
 - (i) let the premises or any part of them; or
 - (ii) assign, transfer or part with possession of the premises or any part of them.

(4) If the Tribunal makes an order for possession under subsection (1), the Tribunal may authorize the landlord to -

- (a) let the premises or any part of them;

ClauseAmendment Proposed

- (b) assign, transfer or part with possession of the premises or any part of them; or
- (c) use, or allow the use of, the premises, or any part of them, other than as a residence for the person specified under subsection (3)(a).

(5) The Tribunal, when granting an authority under subsection (4) to let, must specify the terms, including the rent, on which the premises are, or the part of the premises is, to be let, and the rent must not be more than that payable by the tenant last in possession.

(6) Without prejudice to subsection (8), a landlord who contravenes subsection (3)(b) or (c) commits an offence and is liable on conviction on indictment -

- (a) to a fine of \$500,000;
- (b) in addition, on a second or subsequent conviction, to imprisonment for 12 months;
- (c) in any case, to forfeit a sum not exceeding the equivalent of -
 - (i) in the case of a contravention of subsection (3)(c)(i), 2 years' rent calculated at the rate at which the premises were let without the authority of the Tribunal; or
 - (ii) in the case of a contravention of subsection (3)(c)(ii), the difference, at the date of the contravention, between the

ClauseAmendment Proposed

market value of the premises with vacant possession and the market value of the premises with the former tenant in possession.

(7) A court which sentences a landlord for an offence under subsection (6) may, in addition to imposing a penalty under that subsection, make an order under subsection (8) after hearing the former tenant and the landlord.

(8) If -

- (a) an application for an order for possession is made by the landlord under subsection (1) and it is subsequently made to appear to the Tribunal that the application was successful by reason of the misrepresentation or concealment of material facts by the landlord; or
- (b) the landlord is shown to have acted in contravention of subsection (3)(b) or (c),

the Tribunal or, as the case may be, the court referred to in subsection (7) may order the landlord to pay to the former tenant such sum as it thinks fit by way of compensation for damage or loss sustained by that tenant as a result of the application.

(9) A letting, assignment, transfer or parting with possession of premises or part of them shall not be void, voidable or unenforceable by reason only of a contravention of subsection (3)(b) or (c).

(10) A landlord who has been granted an order for possession pursuant to subsection (1) shall be presumed,

ClauseAmendment Proposed

until the contrary is shown, to have knowledge of the making of the order, of the terms of the order, and of any consent given by the tenant or sub-tenant in connection with the delivery of vacant possession.

(11) For the purpose of this section -

"his father, his mother or any son or daughter of his" (其父親、母親、兒子或女兒) includes the father, mother, son or daughter of one or more landlords, holding the premises jointly or in common, with the other landlord or landlords so holding assenting to the application for an order for possession;

"landlord" (業主) includes one or more landlords, holding the premises jointly or in common, with the other landlord or landlords so holding assenting to the application for an order for possession."

7

(a) In subclause (1) -

- (i) by deleting "appointed day" and substituting "commencement date";
- (ii) in paragraph (a), by deleting "that day" and substituting "that date".

(b) In subclause (2) -

- (i) by deleting "appointed day" wherever it appears and substituting "commencement date";
- (ii) by deleting everything after "日期" where it first appears and before "起" and substituting "的前一天屬存在的第V部適用的租賃而言，如在生效日期之

ClauseAmendment Proposed

前並無根據主體條例第122(1)條就該租賃送達的
終止租賃通知書，則自生效日期”。

- (c) In subclause (3) -
 - (i) by deleting "appointed day" where it twice appears and substituting "commencement date";
 - (ii) by deleting "that day" and substituting "that date".
- (d) In subclause (4), by deleting "appointed day" and substituting "commencement date".

14 By deleting the clause.

Schedule,
section 1 By adding -

"(11) The Tribunal shall have jurisdiction to
make an order for possession -

- (a) upon the expiry of a transitional termination notice served pursuant to section 5(2) of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004 (of 2004);
- (b) upon an application by a landlord for possession as provided by section 5B(2) of that Ordinance;
- (c) upon the termination of a tenancy to which section 7(2) of that Ordinance applies;

ClauseAmendment Proposed

- (d) upon the termination by effluxion of time of a new tenancy entered into on or after the commencement of that Ordinance."

Schedule By adding immediately before section 4 -

"3A. Commencement of proceedings

Rule 68 of the Lands Tribunal Rules (Cap. 17 sub. leg. A) is amended by adding -

"(1A) Proceedings for an order for possession and other reliefs upon the termination of a tenancy by a transitional termination notice served pursuant to section 5(2) of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004 (of 2004) shall be commenced by the applicant filing with the Registrar a notice of application substantially in accordance with Form 22A.

(1B) Proceedings for an order for possession and other reliefs under section 5B(1) of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004 (of 2004) shall be commenced by the applicant filing with the Registrar a notice of application substantially in accordance with Form 22B."

3B. Notice of opposition

Rule 69 is amended -

- (a) by renumbering it as rule 69(1);

ClauseAmendment Proposed

- (b) in subrule (1), by repealing "The" and substituting "Subject to subrule (2), the";
- (c) by adding -

"(2) The period of 14 days mentioned in subrule (1) is reduced to 7 days in the case of an application for an order for possession made on or after the commencement of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004 (of 2004) if the tenancy has been terminated by -

- (a) notice of termination within the meaning of Part IV or Part V of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7);
- (b) notice to quit given by the landlord or tenant;
- (c) surrender;
- (d) a transitional termination notice served pursuant to section 5(2) of the Landlord and Tenant (Consolidation)

Amendment Proposed

(Amendment)
Ordinance 2004
(of 2004); or

(e) effluxion of time."

- (a) By renumbering the section as section 4(1).
- (b) In subsection (1), by deleting "to the Lands Tribunal Rules (Cap. 17 sub. leg. A)".
- (c) By adding -

"(2) The Schedule is amended by adding -

"FORM 22A

[r. 68(1A)]

NOTICE OF APPLICATION UNDER LANDLORD AND TENANT
(CONSOLIDATION)(AMENDMENT) ORDINANCE 2004

Pursuant to section 5(2)

No. LD /

Applicant's Name : _____ * (Landlord/Tenant)
and Address : _____

Respondent's Name : _____ * (Tenant/Sub-tenant)
and Address : _____

Address of premises : _____

ClauseAmendment Proposed

Duration of tenancy

before service of

Transitional

Termination Notice : From _____ To _____ Existing Rent : \$ _____ /month

Transitional

Date of

Date of Expiry

Termination Notice : Service : _____ of Notice : _____

Mode of Service : _____

Nature and particulars of application :

The tenancy having been terminated upon the expiry of a transitional termination notice, the applicant applies for recovery of possession of the suit premises and claims against the respondent for the following item(s) :

(1) Arrears of rent/mesne profits from _____ to the date of delivery of vacant possession of the suit premises and costs.

(2) And others _____

Dated this _____ day of _____

+

(Signature of *Applicant/authorized
representative of Applicant)

Full name of authorized

representative : _____

To : 1. The Registrar, Lands Tribunal.

2. The Respondent.

Applicant's address for service : _____

ClauseAmendment Proposed

+ If the Applicant is a company/incorporation, please affix the company seal and write down the full name of the signatory.

* Delete whichever is inapplicable.

Note : If you intend to oppose this application, you must personally attend at the Lands Tribunal Registry within 7 days of the date of service of this notice or within the time as ordered by the Tribunal, and file a notice of opposition (Form 7).

FORM 22B

[r. 68(1B)]

NOTICE OF APPLICATION UNDER LANDLORD AND TENANT
(CONSOLIDATION)(AMENDMENT) ORDINANCE 2004

Pursuant to section 5B(1)

No. LD /

Applicant's Name : _____ * (Landlord/Tenant)
and Address : _____

Respondent's Name : _____ * (Tenant/Sub-tenant)
and Address : _____

Address of premises : _____

Duration of tenancy : From _____ To _____ Existing Rent : \$ _____ /month

Transitional Termination	Date of	Date of Expiry
Notice (if any) :	Service : _____	of Notice : _____
	Mode of Service : _____	

Nature and particulars of application :

The applicant applies for possession of the suit premises on the ground that the suit premises are reasonably required by the applicant as a residence for –

ClauseAmendment Proposed

[Names, ages and relationship to the applicant of person(s) for whom occupation of the suit premises is required]

And further claims against the respondent for the following item(s) :

(1) Arrears of rent/mesne profits from _____ to the date of delivery of vacant possession of the suit premises and costs.

(2) And others _____

Dated this _____ day of _____

+
(Signature of *Applicant/authorized
representative of Applicant)
Full name of authorized
representative : _____

To : 1. The Registrar, Lands Tribunal.
2. The Respondent.

Applicant's address for service : _____

+ If the applicant is a company/incorporation, please affix the company seal and write down the full name of the signatory.

* Delete whichever is inapplicable.

Note : If you intend to oppose this application, you must personally attend at the Lands Tribunal Registry within 7 days of the date of service of this notice or within the time as ordered by the Tribunal, and file a notice of opposition (Form 7).".".

ClauseAmendment Proposed

Schedule By adding -

**"Standard Chartered Bank (Hong Kong)
Limited (Merger) Ordinance**

29. Interests in land

Section 17(1)(a) of the Standard Chartered Bank (Hong Kong) Limited (Merger) Ordinance (6 of 2004) is amended by repealing ", 119E(2) or 119H(1)(a)".

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Housing, Planning and Lands requested the following post-meeting amendment

Line 7, fourth paragraph, page 179 of the Confirmed version

To amend ".....be reduced from 17 days to seven days....." as ".....be reduced from 14 days to seven days....." (Translation)

(Please refer to line 11, fifth paragraph, page 7608 of this translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for the Civil Service to Mr CHAN Kwok-keung's supplementary question to Question 5**

As regards the promotions of officers who had previously assumed the Directorate Head and Deputy Head posts of the Economic and Trade Offices (ETOs), since the implementation of the flexible ranking system in 1991, the Administration has made 70 appointments to the Directorate Head and Deputy Head posts of the ETOs (excluding those currently serving in the ETOs in the posts concerned). Amongst them, 24 officers appointed were promoted during their tours in the ETOs (including 10 who were subsequently promoted again within five years after leaving the ETO posts and one who proceeded on pre-retirement leave immediately after the post); another 19 were promoted within five years after leaving the ETO post while 14 officers' rank remained unchanged during their ETO tours and who proceeded on leave immediately afterwards prior to their leaving the service. Since some officers had been posted to the ETOs more than once, the above figures have been worked out on the basis of each appointment.

Appendix II

WRITTEN ANSWER

Written answer by the Secretary for the Civil Service to Dr Raymond HO's supplementary question to Question 5

As regards the appointment of officers not coming from the Administrative Service to the Directorate Head and Deputy Head posts of the Economic and Trade Offices (ETOs), since the implementation of the flexible ranking system in 1991, amongst those appointed to the Directorate Head and Deputy Head posts in ETOs, four of them were not members of the Administrative Officer Grade at the time of appointment. The details are set out at Annex for Members' reference.

Annex

Information on the Four Officers who were not Members of the Administrative Officer Grade at the time of taking up the Directorate Head and Deputy Head Posts in Economic and Trade Offices

	<i>Concerned ETO Post</i>	<i>Substantive Rank of the Officer Concerned at the time of Appointment</i>	<i>Duration of the Appointment</i>
1.	Deputy Representative (1) of Hong Kong to the General Agreement on Tariffs and Trade (now retitled as Deputy Representative (1) of the Hong Kong Special Administrative Region of China to the World Trade Organization)	Principal Trade Officer	October 1986 to July 1992
2.	Deputy Representative (3) of Hong Kong to the World Trade Organization (now retitled as Deputy Representative (3) of the Hong Kong Special Administrative Region of China to the World Trade Organization)	Principal Trade Officer	September 1996 to September 2000
3.	Commissioner for Economic and Trade Affairs, United States	Land Registrar	November 1996 to February 1999
4.	Principal Hong Kong Economic and Trade Representative, Tokyo	Director of Broadcasting	December 1999 to March 2002