

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 6 July 2011

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

THE HONOURABLE LI FUNG-YING, S.B.S., J.P.

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

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

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

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, G.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, G.B.S., J.P.

THE HONOURABLE CHEUNG HOK-MING, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, B.B.S., J.P.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING, J.P.

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBERS ABSENT:

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE JOHN TSANG CHUN-WAH, G.B.M., J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

DR THE HONOURABLE YORK CHOW YAT-NGOK, G.B.S., J.P.
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE TSANG TAK-SING, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

PROF THE HONOURABLE K C CHAN, S.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, G.B.S., J.P.
SECRETARY FOR DEVELOPMENT

MR YAU SHING-MU, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE GREGORY SO KAM-LEUNG, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

MISS ADELINE WONG CHING-MAN, J.P.
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND
AFFAIRS

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Residential Care Homes (Persons with Disabilities) Regulation	111/2011
Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2011	112/2011

Other Papers

- No. 98 — Report by the Commissioner of Correctional Services on the administration of the Prisoners' Welfare Fund together with the Report of the Director of Audit and audited financial statements for the year ended 31 March 2011
- No. 99 — Construction Industry Council Annual Report 2010
- No. 100 — Independent Commission Against Corruption Complaints Committee Annual Report 2010
- No. 101 — Annual Report of The Ombudsman Hong Kong 2011
- No. 102 — Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2010
- No. 103 — Report of the Public Accounts Committee on Report No. 56 of the Director of Audit on the Results of Value for Money Audits
(July 2011 — P.A.C. Report No. 56)

Report of the Finance Committee on the examination of the Estimates of Expenditure 2011-2012

Report No. 28/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2011

Report of the Panel on Manpower 2010-2011

Report of the Panel on Home Affairs 2010-2011

Report of the Panel on Food Safety and Environmental Hygiene 2010-2011

Report of the Panel on Welfare Services 2010-2011

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mrs Sophie LEUNG will address the Council on the "Independent Commission Against Corruption Complaints Committee Annual Report 2010".

Independent Commission Against Corruption Complaints Committee Annual Report 2010

MRS SOPHIE LEUNG (in Cantonese): President, as a member of the Independent Commission Against Corruption Complaints Committee (the Committee), I hereby table the Independent Commission Against Corruption Complaints Committee Annual Report 2010 (Annual Report) on behalf of the Committee.

This is the sixteenth Annual Report published by the Committee which provides a summary of the work of the Committee for the year 2010. The Committee's major responsibility is to monitor the handling by the Independent Commission Against Corruption (ICAC) of non-criminal complaints lodged by anyone against the ICAC and its officers, and exercise independent judgment. Moreover, the Committee will review the relevant working procedures and make

recommendations for improvement where it considers appropriate. To enhance public understanding of the ICAC's complaint handling mechanism, this report also explains in detail the function and mode of operation of the Committee.

In 2010, the Committee held three meetings to consider papers and investigation reports on 25 complaints involving 67 allegations. In respect of the five allegations in four of the complaints which were found to be substantiated, the relevant ICAC officers were already given appropriate advice. Through examination of the complaints and relevant issues, the Committee has carefully scrutinized the existing ICAC internal procedures, guidelines and practices to see whether they need to be revised, with a view to making improvements. Arising from the investigation reports considered during the year 2010, the ICAC has reminded its officers to adhere to the relevant internal guidelines in respect of work procedures in order to upkeep the professionalism of the ICAC.

The publication of the Annual Report enables the Committee to brief the public on its work on a regular basis. It can also enhance the accountability and transparency of the Committee's work. Should Members have any comments on the Annual Report, they are welcome to forward their views to the Secretary of the Committee. The support of this Council and members of the public to the work of the Committee is very much appreciated.

Thank you, President.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam will address the Council on the "Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2010".

Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2010

MR CHAN KAM-LAM (in Cantonese): President, as a member of the Advisory Committee on Corruption, I have great honour to brief Members on the "Independent Commission Against Corruption Annual Report 2010" tabled in the Council today.

In 2010, the Independent Commission Against Corruption (ICAC) continued to adopt its three-pronged strategy of law enforcement, prevention and community education to discharge its statutory duty in the fight against corruption, whilst members of the community continued to express their trust and support.

Despite the lingering aftershocks of the global financial crisis, the total number of corruption reports stood at 3 427 in 2010, representing a slight decrease of 1% over 3 450 in 2009; amongst them, the number of pursuable reports was 2 663, or 78% of the total, an increase of 5% over that recorded in 2009. The case-based conviction rate was as high as 88%, while the proportion of non-anonymous reports reached 74%, reflecting continuous enhancement of public integrity and vigilance. The proportion of reports concerning government departments and public bodies was more or less the same as that in the previous year, accounting for 36% of the total. The number of reports concerning the private sector also slightly dropped from 2 183 in 2009 to 2 181, accounting for 64% of the total; amongst them, the number of complaints concerning building management stood at 957 in 2010 or 44% of all private sector reports, more than half of which concerned the operation and management of Owners' Corporations (OCs). The situation aroused wide concern. Riding on the strength of robust law enforcement, the ICAC also educated owners how to fend off irregularities through extensive publicity and educational activities, such as distributing a new toolkit on the operation of OCs and corruption prevention guidelines to all OCs in Hong Kong last year, and seeking the District Councils' support for launching a large-scale promotional campaign in the community.

Over the past year, apart from the provision of corruption prevention advisory services to the private sector, the ICAC's corruption prevention work continued to focus on areas of public concern, such as governance and internal control of schools under the Direct Subsidy Scheme and non-governmental organizations, administration of Government funding schemes, law enforcement, sale of properties, building management, and the tendering process of major Government development projects. Besides, in light of the Government's policy commitment to develop the testing and certification industry as one of the economic pillars of Hong Kong, the ICAC took the initiative to recommend preventive measures to the Hong Kong Council for Testing and Certification and relevant trade bodies so as to lower the risk of corruption in procedural and operational aspects. Last year, the ICAC completed 72 assignment studies on

various areas of public concern and provided quick and early advice to government departments and public bodies when they were in the process of formulating new legislations, policies and procedures to ensure that adequate safeguards against corrupt practices were in place. In 2010, such corruption prevention advice was given on 488 occasions.

Furthermore, the ICAC launched various preventive education initiatives during the year, venturing into a new domain to nurture future leaders by helping to incorporate personal ethics into the General Education Programmes of three of the constituent colleges of The Chinese University of Hong Kong, and the ICAC officers delivered pilot lectures to over 2 000 first-year students. To sustain the enthusiasm of young people in spreading ethical messages, the ICAC inaugurated in October last year the i-League, an association with membership of 300 past and present ICAC Ambassadors. During the year, an API Competition on anti-corruption theme was also co-organized for the first time with the Guangdong Provincial People's Procuratorate and Commission Against Corruption of Macao for young people to effect ownership of positive values through personal experience. As in the previous year, the ICAC continued to join force with the Civil Service Bureau to implement the "Ethical Leadership Programme" to encourage government departments to actively promote staff integrity. It also promoted anti-corruption messages and corruption prevention service to small and medium enterprises through an extensive network in the business sector.

Notwithstanding global recognition of Hong Kong's achievement in the fight against corruption, the ICAC made continuous effort to strengthen its liaison work with anti-corruption agencies around the world. Through the Centre of Anti-Corruption Studies established in recent years, the ICAC provided a platform for law-enforcement agencies and academics in Hong Kong, the Mainland and overseas to conduct research on anti-corruption strategies and promote its anti-corruption initiatives to regions outside Hong Kong. Besides, senior officers of the ICAC also had active participation in the first International Anti-Corruption Academy (IACA) set up in Vienna last year. The IACA was established under the auspices of the United Nations Office on Drugs and Crime, the Republic of Austria and the European Anti-Fraud Office to facilitate international exchanges.

In the continuous drive to counter the increasingly complicated and sophisticated corruption activities and better prepare for fast changing times, the ICAC enhanced training for ICAC officers in forensic accounting and information technology. Restructuring of its community relations arm was also conducted in phases to enhance its service in implementing integrity education and promoting business ethics and corporate governance.

President, on behalf of the Commissioner of the ICAC, I wish to take this opportunity of tabling the report to the Council to thank this Council and members of the public for their support to the ICAC and to express my gratitude to members of the various advisory committees of the ICAC for their valuable contribution over the past year. President, I so submit.

PRESIDENT (in Cantonese): Dr Philip WONG will address the Council on the "Public Accounts Committee Report No. 56".

**Report of the Public Accounts Committee on Report No. 56 of the Director of Audit on the Results of Value for Money Audits
(July 2011 — P.A.C. Report No. 56)**

DR PHILIP WONG (in Cantonese): President, on behalf of the Public Accounts Committee (PAC), I table our Report No. 56. This report corresponds with the Director of Audit's Report No. 56 on the results of value for money audits (Audit Report).

The PAC has, as in the past, selected for detailed examination only those chapters in the Audit Report which, in our view, contained more serious allegations of irregularities or shortcomings. The report tabled today covers our deliberations on the two chapters selected.

I now succinctly report the conclusions made by the PAC.

Regarding the chapter on "Hong Kong 2009 East Asian Games" (EAG), the PAC notes that the Audit Commission's value for money review was focused on the planning, organization and implementation of the EAG, and not whether the Games had been held successfully.

The PAC is particularly concerned about the full direct cost of organizing the EAG. The Audit Report pointed out that in the funding paper submitted to the Finance Committee in January 2006, the Home Affairs Bureau estimated that the gross expenditure for organizing and implementing the EAG would be \$240 million, but as it transpired, the actual expenditure, excluding the additional direct expenditures of \$132.8 million incurred by various bureaux and departments, was \$291.1 million. Adding these additional direct expenditures, the total expenditure of the EAG amounted to \$423.9 million, of which \$243.9 million was borne by the Government.

The PAC is gravely dismayed and finds it unacceptable that when the Home Affairs Bureau sought the Finance Committee's funding approval for hosting the EAG, it had neither ascertained the full direct cost implications of hosting the event nor informed the Finance Committee of them.

The Audit Report also revealed that some actual expenditure items of the EAG differed significantly from the estimated amounts as stated in the Finance Committee paper of 2006. For example, the actual expenditure on the opening and closing ceremonies increased by 81% compared to the estimated expenditure; and the actual cost of temporary works for the EAG competition venues represented a six-fold increase against the estimated cost. The Committee finds it appalling and inexcusable that the Home Affairs Bureau failed to prepare an estimate of acceptable accuracy of the income and expenditure for the EAG when seeking the Legislative Council's approval for hosting the EAG.

The PAC finds it unacceptable that the Home Affairs Bureau had not taken the initiative to timely inform the Finance Committee or the Panel on Home Affairs of the significant variations in the income and expenditure estimates of the EAG after obtaining the Finance Committee's funding approval in 2006.

The PAC considers that it is incumbent upon the Administration, in seeking the Finance Committee's acceptance in principle for making a bid and funding approval for hosting a major event, to inform the Finance Committee of the full cost implications of hosting the event, particularly the full direct costs. The PAC also recommends that, for those major events or projects which take years to prepare and implement, the Secretary for Financial Services and the Treasury should establish a mechanism to require the responsible bureaux and departments to proactively keep the Legislative Council informed of the updated income and

expenditure estimates, such as by making periodic progress reports to the relevant Panels or the Finance Committee, and highlight significant changes since such estimates were provided to the Finance Committee.

The PAC is also surprised and finds it unacceptable that the Secretary for Home Affairs and the Director of Leisure and Cultural Services conducted neither a comprehensive post-implementation review nor a comprehensive and systematic financial review on the EAG.

The PAC notes that the East Asian Games (Hong Kong) Limited (EAG Company) implemented a legacy project of \$10 million in June 2010, which comprised two donations totalling \$9.8 million to support the long-term development of Hong Kong athletes, by utilizing the company's operating surplus. The PAC is not convinced by the Secretary for Home Affairs's claim that the allocation of part of the operating surplus of the EAG Company to fund the legacy project was within the scope of policy decisions which he was entitled to make and it was not necessary for the Administration to seek the Legislative Council's approval.

The PAC considers that although the legacy project itself was meaningful, worthwhile and agreed to by the Administration, it fell outside the ambit of the Finance Committee's funding approval for the organization and implementation of the EAG, and the operating surplus of the EAG Company should be returned to the Government pursuant to the Tripartite Agreement entered among the Government, the Sports Federation and the Olympic Committee of Hong Kong, China and the EAG Company. Hence, the Secretary for Home Affairs has neither discretion nor room to allow the allocation of the operating surplus to fund the legacy project and the Administration should first seek the Finance Committee's approval for so doing, in accordance with the established regime for controlling the use of public funds. The PAC therefore considers it inappropriate to use the EAG Company's operating surplus to finance the two donations under the legacy project.

Another chapter that the PAC has examined is "Hong Kong Housing Authority: Management of commercial properties".

The Audit Report revealed that suspected gambling activities appear to be common occurrences in some retail premises of the Hong Kong Housing

Authority (HA). Although the Housing Department (HD) issued an internal instruction in as early as January 1997 requiring all estate housing managers to take various measures to deal with gambling activities, HD staff have failed to follow through the measures laid down in the instruction.

Although HD front-line staff or security guards are required to conduct daily patrols of retail premises to ensure the proper use and prompt maintenance of the premises, and to monitor tenants' performance under the marking scheme, and the HD has implemented a unit-to-unit inspection regime on all retail premises since July 2010, there are still cases of improper use and unauthorized alteration of retail premises.

The PAC is surprised and regrets that the HD's day-to-day management of the HA's retail premises is lax and ineffective, as reflected by the abovementioned situations. The PAC considers that the problems are attributable partly to the failure of staff of the HD and property management contractors to vigilantly follow the HD's set instructions and guidelines over the years, and partly to the HD management's failure to provide proper guidance to its staff and contractor staff on the conduct of inspection of retail premises, and to deploy adequate manpower for the management of retail premises.

In addition, the PAC regrets that many HA retail premises have remained vacant for a long time. While recognizing that the long vacant retail premises are often located in older public housing estates and unpopular locations, the PAC regrets that the HD has taken neither effective measures to let out those retail shops nor prompt actions to explore viable options to optimize their use, leading to a waste of public resources.

Regarding the divestment of the HA's retail and carpark facilities, the Audit Report pointed out that although it was the Administration's intention that the legal title of the remaining 104 divested properties would be transferred to The Link Real Estate Investment Trust (The Link REIT) in batches by mid-2008, there were, in the end, 54 divested properties the legal title of which could only be transferred to The Link REIT after mid-2008. The late completion of the transfer had deprived the Government of the right to charge Government rent on the divested properties during the period from mid-2008 to July 2010, resulting in a loss amounted to some \$30 million. Besides, the Administration had not before the listing of The Link REIT conducted a comprehensive risk assessment,

from the perspective of the Government and the taxpayers, of the delay in transfer of legal title and take effective measures to protect the Government from the loss of collectable rent. The Committee expresses regrets on the above.

President, as always, the PAC has made its conclusions and recommendations in this report with the aim of ensuring the achievement of value for money in the delivery of public services by the Administration.

Lastly, I wish to register my appreciation of the contributions made by members of the PAC. Our gratitude also goes to the representatives of the Administration and other organizations who attended the hearings held by the PAC. We would also like to express our gratitude to the Director of Audit and his colleagues, as well as the staff of the Legislative Council Secretariat, for their unfailing support.

President, I so submit.

PRESIDENT (in Cantonese): Ms Emily LAU will address the Council on the "Report of the Finance Committee on the examination of the Estimates of Expenditure 2011-2012".

Report of the Finance Committee on the examination of the Estimates of Expenditure 2011-2012

MS EMILY LAU (in Cantonese): President, pursuant to Rule 71(11) of the Rules of Procedure, the Estimates of Expenditure 2011-2012 were referred to the Finance Committee at the Council meeting on 23 February 2011. On behalf of the Finance Committee, I now submit the report on the examination of the Estimates of Expenditure.

In order to study in detail the various items of the Administration's 2011-2012 expenditure, special Finance Committee meetings had been held in 20 sessions from 21 to 25 March this year.

Due to time constraints, members were requested to first submit written questions for written replies to be tabled by the Administration prior to the special

meetings. This year, a total of 3 928 written questions had been submitted by members, mostly on the details of expenditures for welfare services, labour, education, medical and health services as well as home affairs. The Administration had the written replies to these 3 900-odd written questions tabled prior to the relevant special meetings, the electronic version of which had also been uploaded to the Legislative Council's website for public perusal.

On 23 February this year, the Financial Secretary delivered the Budget, part of which had aroused strong views in the community. In response to the public opinion, the Financial Secretary announced to the media on 2 March amendments to the Budget, which included the removal of the original proposal to inject funds into Mandatory Provident Fund accounts, which was replaced by the handout of \$6,000 to all Hong Kong permanent residents aged 18 or above, as well as the injection of funds into the Community Care Fund to provide assistance to people with financial difficulties who were not benefited by this measure. Regarding these amendments, members and I had urged the Financial Secretary to give explanations to the Legislative Council. The Financial Secretary submitted an outline of the adjustment proposals to the Finance Committee on 9 March this year and attended the session on Public Finance in the special meeting of the Finance Committee held on 25 March to explain the relevant amendments to members. Although members generally supported the Administration's adjustment proposals, they raised a number of queries and views on the relevant justifications and specific arrangements. Most members considered that the handout of cash to members of the public and the provision of assistance through the Community Care Fund were only short-term relief measures. The Administration still had to make long-term planning and commitment with regard to the policies and measures for improvement of livelihood.

During the examination of the Budget, members urged the Administration to allocate more resources and provide members of the public with better services with respect to social welfare, education, medical and health services and protection of labour interests.

Regarding social welfare, members were particularly concerned about the problem of insufficient residential care home places for the elderly and people with disabilities, as well as the excessively long waiting time. In the area of education, members urged the Administration to improve pre-primary education, implement small class teaching, provide 15-year free education, offer support to

students from low-income families and inject more resources to facilitate research work.

Regarding medical and health services, members were gravely concerned about the working pressure of healthcare professionals and shortage of manpower. The Government was urged to enhance training for healthcare professionals and improve their remunerations and promotion prospects in order to retain talents.

Given the occurrence of the nuclear leakage incident in Fukushima in Japan, members were concerned whether the relevant departments such as the Customs and Excise Department and the Government Laboratory had sufficient manpower and resources to handle the inspections of imported food and goods. Members reminded the Administration that should any incident occur in the Daya Bay Nuclear Power Station, the relevant Policy Bureaux and departments must respond to the emergency effectively, and regular drills should be carried out for this purpose.

As for the other priority tasks put forward by the Government, such as improving air quality and waste treatment, increasing the supply of public housing, support for enterprises, promoting the development of creative industries and stabilizing transport service charges, members also expressed to the Administration their views on the allocation of resources.

On the adjustment proposals for the handout of \$6,000 and injection of funds into the Community Care Fund, the Financial Secretary moved a Committee Stage Amendment to the Appropriation Bill 2011 to increase the provision under Head 106 Subhead 789 by \$7.1 billion to \$58.8 billion. The amended Appropriation Bill for 2011-2012 was passed in the Council on 14 April 2011.

President, I am most grateful for members' enthusiastic participation in the examination of the Budget, and here I would like to pay tribute to the staff of the Financial Services and the Treasury Bureau and the Legislative Council Secretariat for their unfailing support.

President, I so submit.

PRESIDENT (in Cantonese): Mr IP Kwok-him will address the Council on the "Report of the Panel on Home Affairs 2010-2011".

Report of the Panel on Home Affairs 2010-2011

MR IP KWOK-HIM (in Cantonese): President, in my capacity as Chairman of the Panel on Home Affairs (the Panel), I now report to the Council on the Panel's work during the 2010-2011 Legislative Session.

During this Legislative Session the Panel has held 14 meetings to date, totalling 28 hours; it has interviewed 56 deputations and discussed 25 subjects. Another regular meeting has been scheduled before the recess of the Legislative Council to discuss three subjects. Since the work of the Panel is already set out in detail in the report, I will only focus on the achievement and progress of its work in several aspects.

The first one is about sports. The Panel held a number of discussions on whether Hong Kong should bid to host the 2023 Asian Games and it had listened to the views of stakeholders such as athletes. Given the huge expenditure involved in the Asian Games and the Administration's lack of a sound and long-term policy on sports, coupled with the fact that the support for athletes, investment in sports facilities and promotion of the sports culture still needed improvement, members in general had reservations on the bid to host the Asian Games. The Panel passed two motions to respectively request the Government to shelve its bid to host the Asian Games, and to set up a Sports Fund with a sum equal to the \$6 billion direct cost to be earmarked for staging the Games for the purpose of promoting the policy of sports for all and enhancing the training and retirement arrangements for local elite athletes, and to draw up a 10-year blueprint for sports development. In this regard, members welcomed the Administration's establishment of a \$7 billion Elite Athletes Development Fund, but they were still discontented with the slow progress of the works projects for sports facilities in a number of districts. The Panel decided to convene a meeting as soon as possible to follow up the relevant matters.

The Panel discussed the Administration's policy concerning private recreational leases. Members generally hoped that the Administration would encourage those organizations which operated in accordance with the relevant leases, particularly private sports clubs, to offer more opportunities for the public

to use their sports facilities and make greater contributions in promoting the local sports development. The Administration agreed to consider conducting a comprehensive review on the policy for such leases, including the abolition of outdated terms. Since the policy issue involves significant public interests, the Panel requested the Administration to expedite its report on the results of the policy review.

The Panel continued to follow up the progress of the outstanding leisure and cultural services projects of the two former Municipal Councils. Members were in general dissatisfied with the Administration's failure to provide a timetable of implementation for the various leisure and cultural services projects in the districts which had been planned for a long time but were still not implemented. The Panel would hold another meeting to follow up this matter.

The Panel was gravely concerned about the cultural development in Hong Kong. The Administration reported to the Panel the progress of the territory-wide survey of intangible cultural heritage conducted in Hong Kong since 2009 and undertook to further consult the Panel on the protection and transmission of intangible cultural heritage after completing the survey and establishing a Hong Kong intangible cultural heritage inventory. Besides, in view of the close relationship between intangible cultural heritage and the community, the Government acceded to members' request to consider appointing more representatives from the community to the Intangible Cultural Heritage Advisory Committee of the Administration so that excavation and conservation work could be carried out more effectively.

The Panel discussed the nomination of arts interests representatives for the Hong Kong Arts Development Council (HKADC) in 2010. Members in general criticized the arrangements as unsatisfactory. First, the number of representatives from the arts and cultural sector in the HKADC's membership was not enough. Second, under the existing cross voting system, a single arts organization for a certain arts interest could mobilize its members to register as voters and vote in the nomination exercise of other arts interests, thereby affecting the voting results. Third, in the nomination exercise of many arts interests, the number of blank votes was greater than the number of votes obtained by the elected candidate. The Administration undertook to review the arrangements of the nomination exercise. The Panel would follow up this matter again, which included listening to the stakeholders' views.

To tie in with the development of the West Kowloon Cultural District, the Panel attached much importance to the development of local cultural software. In the light of this, the Panel held a joint meeting with the Panel on Education to discuss the implementation of arts education in schools. Members were concerned that schools generally gave more weight on core subjects and attached less importance to arts subjects. The Administration undertook to review and fine-tune the relevant curriculum strategies. Both Panels agreed to hold another joint meeting to continue to urge the Administration to enhance arts education in schools.

President, community affairs is also a major area of concern of the Panel. The Panel held discussions on the operation of the Community Care Fund (CCF). There were worries about possible dilution of the CCF on the business sector's donations to charities, but some members considered that the CCF could help to line up different parties in the community to work together for building up a caring culture. Despite members' divergent views on the setting up of the CCF, they generally considered that the Administration was required to report on the operation and implementation progress of the CCF to the Council on a regular basis. The Administration undertook that the CCF's operation would be highly transparent. Its statement of accounts would be audited by the Director of Audit and tabled at the Legislative Council every year.

Regarding the situation and results of the village representative election in 2011, the Panel was still very concerned about the low participation rate of women and hoped that the Administration would work out ways for improvement. Besides, members generally considered that since village representative election and Heung Yee Kuk election had come under statutory regulation one after the other, the Administration should treat all elections alike and consider introducing legislation to regulate rural committee election. The Administration undertook that it would also consider the relevant matters in reviewing the arrangements for the 2011 village representative election.

In response to members' discontent with the Administration's slow progress in regulating the property management industry in the last Legislative Session, the Administration reported to the Panel on its public consultation on the regulation of the industry. Members were in general supportive of regulating the industry so as to raise the quality of management, but they were worried that small and medium-sized property management companies might consequently be

driven out of the market, resulting in the market being monopolized by big property management companies and upsurge in management fees to be borne by property owners. The Panel would discuss with the Administration the results of the public consultation and relevant regulatory proposals in its regular meeting in July.

Lastly, I would like to thank members for their support to the work of the Panel in the past year. I so submit.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG will address the Council on the "Report of the Panel on Food Safety and Environmental Hygiene 2010-2011".

Report of the Panel on Food Safety and Environmental Hygiene 2010-2011

MR TOMMY CHEUNG (in Cantonese): President, in my capacity as Chairman of the Panel on Food Safety and Environmental Hygiene (the Panel), I now submit the Panel's work report for 2010-2011 and give an account of several major items of work of the Panel.

Whether itinerant hawker licences (IHL) should be extended was one of the focuses of discussion of the Panel in this Legislative Session. Members mentioned the request of elderly IHL holders for an extension of the validity period of the voluntary surrender scheme for IHL to enable them to continue to work until they chose to retire in due course. Some members considered that no time limit should be set on the scheme. The Panel passed a motion urging the Government to retain the scheme for itinerant hawkers. The Panel was subsequently informed of the Administration's decision to extend the options of an *ex gratia* payment of \$30,000 and priority selection of a vacant fixed pitch by two years until 31 December 2012, while the option of selecting a vacant public market stall would expire on 31 December 2010 as scheduled.

Another concern of the Panel was public market rental. Some members were of the view that it was unfair to stall operators if public market rentals were adjusted across the board. There was the suggestion of using the median rental as the basis of rental adjustment mechanism to minimize rental disparity. Members also queried whether it was reasonable to charge stall tenants with

air-conditioning charges for common areas in public markets. The Panel passed a motion opposing the Government's adoption of a new rental adjustment mechanism based on the actual average rental or market rental; and urging the Government to continue to freeze public market rental and hawker licence fee, as well as requesting the Government to calculate the air-conditioning charges of stalls according to the actual rental area. The Panel passed another motion requesting the Government to withdraw its proposals, and to solicit afresh views of the Legislative Council and market traders. Members welcomed the Administration's ultimate decision to continue to freeze the rental of public market stalls until 31 December 2012. The Administration would study the views of members and traders and discuss the matter with the Panel.

The Panel continued to follow up the provision of columbarium facilities and regulation of private columbaria. Regarding the proposal to set up a licensing scheme, concerns were raised over whether the columbaria to be exempted from the scheme would still need to comply with the requirements to be imposed by the licensing authority in order to protect the interests of consumers. According to the Administration, all those columbaria to be exempted from the scheme would still need to adhere to the requirements of other legislation such as those on lands, planning, fire safety and building structure. In order to continue their business, the unauthorized columbaria should regularize any breaches of planning and/or lease terms by applying for the relevant planning permission and/or modification. Members urged the Administration to expedite the introduction of the relevant legislation to the Legislative Council.

Regarding the trawl ban in Hong Kong waters, members welcomed the Administration's final proposal to raise the multiplier of the formula of *ex gratia* allowance (EGA) from seven years to 11 years' notional fish catch value in calculating the EGA for the affected inshore trawler owners. For the larger trawlers which generally did not operate in Hong Kong waters, members pointed out the dissatisfaction of owners of these trawlers with the Administration's proposal to give a lump sum EGA of \$150,000 for each larger trawler, and their request for the Administration to raise the amount of this EGA. Some members were highly concerned that the Administration did not propose to give any EGA or grant to the related trades (for example, fish collectors, ice supply and vessel repair) to help them modify their vessels or equipment to cater for the change of business model. These members requested the Administration to consider issuing EGA to the affected trades. Besides, there was a suggestion for the

Administration to consider using the contingency fund to assist the related trades. Members urged the Administration to offer sufficient support for the affected trawler fishermen to switch to other sustainable fishery operations.

With regard to food safety, since the earthquake had damaged the Daiichi nuclear power plant in Japan, leading to release of radioactive substances in the environment, members were gravely concerned about the inspection and testing of food imported from Japan. The Administration advised that since 12 March this year, the Centre for Food Safety (CFS) had stepped up surveillance and tested the radiation level of all fresh food imported from Japan. Other foodstuffs imported from Japan were also monitored. The CFS would continue to closely monitor the situation and make reference to the recommendations of the World Health Organization and the International Atomic Energy Agency.

Regarding the incident of food contamination with plasticizer in Taiwan, members were concerned about the surveillance and testing of food products imported from Taiwan, and whether the action level for plasticizer adopted in Hong Kong was adequate to protect public health. Members were advised that the CFS had strengthened its surveillance and testing of five categories of products according to the daily information on vendors and products involved in the plasticizer contamination incident as released by the Taiwanese authority. On 2 June this year, the Expert Committee on Food Safety endorsed that an action level of 1.5 mg/kg in food for plasticizer di(2-ethylhexyl) phthalate (DEHP) would be adopted in Hong Kong. This level was considered adequate to protect public health and useful to distinguish the presence of DEHP in food from environmental contamination or migration via food contact materials from adulteration. The CFS would include DEHP in Hong Kong's routine food surveillance programme.

Members were supportive of providing the CFS with adequate manpower and resources where needed so as to cope with the increase in surveillance and testing of food imported from Japan and food products contaminated with plasticizers, as well as the CFS's regular food surveillance work.

This Panel and the Panel on Manpower held a joint meeting last Tuesday to discuss the creation of employment opportunities under the hawker policy. Members in general considered that hawking activities could foster district economic development and provide job opportunities. Hawkers' stalls could

also serve a good place for the low-budget grassroots to visit and help to ease the pressure of living. Members suggested that the Administration relax the hawker policy and set up hawker areas or open-air bazaars in the districts to diversify the economic activities in the community, thereby creating more job opportunities. Since the proposals involve various policy areas, members urged the Administration to set up an inter-departmental group to study and formulate a long-term hawker policy so as to revitalize the hawking trade.

Lastly, I would like to take this opportunity to thank members for their support to the work of the Panel and the Secretariat for its assistance. Thank you, President.

PRESIDENT (in Cantonese): Mr CHEUNG Kwok-che will address the Council on the "Report of the Panel on Welfare Services 2010-2011".

Report of the Panel on Welfare Services 2010-2011

MR CHEUNG KWOK-CHE (in Cantonese): President, in my capacity as Chairman of the Panel on Welfare Services (the Panel), I now submit the report on the Panel's work for 2010-2011 to the Legislative Council and highlight several major items of work of the Panel.

In the light of an ageing population, the Panel was gravely concerned about the retirement life of the elderly. In February this year, the Administration relaxed the annual permissible limit of absence from Hong Kong for the Old Age Allowance (OAA) from 240 days to 305 days so that some elderly people who lived on the OAA could settle on the Mainland. However, members were of the view that the Administration should remove all restrictions on absence from Hong Kong for the OAA. Members also pointed out that the crux of the problem was the lack of comprehensive retirement protection for these elderly people, and thus they were not provided with a sense of security. Although the Administration had repeatedly stressed that Hong Kong adopted a three-pillar model for retirement protection, that is, the non-contributory social security system, the Mandatory Provident Funds Scheme and voluntary private savings, members considered that the three-pillar model was inadequate for protecting the retirement life of all people, in particular the needy elderly, low-income earners

and housewives. Members strongly urged the Administration to kick start the study on the implementation of a universal retirement protection scheme. The Panel also passed a motion urging the Administration to establish an inter-departmental task force to follow up the subject of implementing universal retirement protection for all people in Hong Kong.

The Administration responded that it did not rule out the feasibility of studying the proposal, but it did not see the need to set up an inter-departmental task force. Since the Central Policy Unit was studying the sustainability of the existing retirement protection model, the Administration would consider the findings of the study and decide the course of action to be taken.

Members opined that the Administration was using the study of the Central Policy Unit as an excuse to delay looking into the universal retirement protection scheme. As a result, members appointed a subcommittee under the Panel to follow up this subject. The subcommittee was already activated in May.

The provision of barrier-free access and facilities for people with disabilities had always been a concern of the Panel. In response to the release of the Formal Investigation Report: Accessibility in Publicly Accessible Premises by the Equal Opportunities Commission (EOC) last year and the 23 recommendations for improvement, apart from holding meetings to discuss the Administration's response and proposed follow-up actions, the Panel also obtained the approval of the House Committee in January this year for the allocation of a debate slot to allow me to move a motion for debate in my capacity as Chairman of the Panel on the report at the Council meeting of 26 January 2011, and the motion was carried. To monitor the Administration's follow-up actions on the EOC's report more effectively, and to study issues relating to the provision of barrier-free access and facilities for people with disabilities, members appointed a subcommittee under the Panel to follow up this subject. The subcommittee was already activated in June this year.

Regarding the provision and increase of subsidized residential care places, last year the Panel appointed a subcommittee to study policies and measures relating to the provision of residential care places and community care services for people with disabilities and the elderly. The subcommittee held discussions with the Administration and other deputations concerned on the increase of subsidized residential care places and enhancement of community care services

and supporting measures. The Subcommittee had concluded its work and submitted its report to the Panel in June this year.

The Panel continued to follow up the Administration's support for the disadvantaged. Members were particularly concerned about the impact of inflation and surging rentals of private housing on the Comprehensive and Social Security Assistance (CSSA) households. Members strongly called on the Administration to conduct expeditiously a comprehensive review on whether the CSSA standard payment rates was adequate to maintain the purchasing power of the CSSA recipients, and review the adjustment mechanism for rental allowance under the CSSA Scheme.

The Panel noted that the Social Welfare Advisory Committee (SWAC) was finalizing the report on the long-term social welfare planning in Hong Kong. Members also learnt that the Administration would thoroughly analyse and study the recommendations upon receipt of the SWAC's report and then report to the Panel. Members opined that they should closely follow up the SWAC's recommendations and the Administration's response. Hence, the Panel would continue to follow up the relevant work actively in the coming year.

Lastly, I would like to take this opportunity to thank members for their support to the work of the Panel in the past year.

I so submit.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan will address the Council on the "Report of the Panel on Manpower 2010-2011".

Report of the Panel on Manpower 2010-2011

MR LEE CHEUK-YAN (in Cantonese): President, in my capacity as Chairman of the Panel on Manpower (the Panel), I now report to the Council on the Panel's work during the 2010-2011 Legislative Session.

As at today, the Panel has held a total of 13 meetings during the current Legislative Session, including a joint meeting with the Panel on Food Safety and

Environmental Hygiene. Another meeting has been scheduled before the end of the current Legislative Session. Since the work of the Panel is already set out in detail in the report, I will only focus on the work of the Panel in several aspects.

High on the agenda of the Panel in the current Legislative Session was the monitoring of the implementation of statutory minimum wage (SMW). The Panel discussed at most of its regular meetings issues relating to SMW, including the initial SMW rate, productivity assessment for persons with disabilities, reference guidelines on SMW, wage arrangement for non-skilled workers engaged under government service contracts, and major findings of the 2010 Annual Earnings and Hours Survey. The Panel noted that the Administration would, in the light of operational experience, review the special arrangement for persons with disabilities, including the need for an appeal mechanism and the impact of SMW on the employability of persons with disabilities, within two years after the implementation of SMW.

Regarding the Work Incentive Transport Subsidy Scheme, the Panel was briefed by the Administration on the key features of the Scheme, which would be territory-wide and would replace the original Transport Subsidy Scheme.

While members in general welcomed the Administration's proposal to launch the Scheme to benefit low-income earners, there were strong views that applicants should be given the choice of undergoing a means test on a household basis or individual basis. The Panel passed a motion urging the Administration to improve the Scheme, which included allowing applicants who worked less than 72 hours per month to receive a transport subsidy calculated on a pro-rata basis, raising the income limits for different household sizes, and advancing the implementation date from the third quarter of 2011 to 1 June 2011.

The Administration later proposed enhancements to the Scheme by raising the income threshold for two-member households from \$8,500 to \$12,000 and providing a half-rate subsidy of \$300 to qualified applicants who worked for less than 72 hours but at least 36 hours per month.

Members in general supported the Administration's proposed enhancements to the Scheme, although they considered that there was room for further improvement. A suggestion was made to the Administration to conduct a study in its future review of the Scheme on allowing applicants the choice of

undergoing a means test on a household basis or individual basis, as well as the feasibility of streamlining the means test procedures. The Administration advised that a mid-term review would be carried out in October 2012, having regard to the experience gained during the first year of operation. It would also conduct a comprehensive review of the Scheme, including its objectives, eligibility criteria, *modus operandi* and effectiveness, having regard to the experience gained during the first three years after its implementation.

Concerning the replacement holiday arrangements, members discussed the legislative proposal put forward by the Administration in relation to the arrangement for replacement holiday when a Lunar New Year holiday or the day following the Chinese Mid-Autumn Festival fell on a Sunday. While members in general welcomed the proposal, there were concerns that as an increasing number of organizations were implementing a five-day work week, employees working in these organizations would unlikely benefit from the replacement holiday arrangement as presently proposed. Hence, the Administration was requested to further examine the feasibility of extending the replacement holiday arrangement to cover the situation where a statutory holiday or general holiday fell on a Saturday so that employees who worked five days a week from Monday to Friday with day-off on Saturday would also be benefited.

Besides, members were highly concerned about the latest situation of the Protection of Wages on Insolvency Fund (PWIF). Members noted that the surplus of the PWIF had increased from \$1,749 million at the end of 2009 to \$2,152 million at the end of 2010, and thus the Administration planned to expand the scope of the PWIF to cover pay for annual leave and statutory holidays accrued but not yet taken by employees in insolvency cases. A suggestion was made to further enhance the protection for employees by raising the payment ceiling from \$10,500 to \$20,000 and relaxing the limits in respect of an employee's outstanding entitlements to statutory holidays in the application for *ex gratia* payment from the PWIF.

According to the Administration, the community had divergent views on the issue. The Labour Department had commissioned the Census and Statistics Department (C&SD) to collect and compile statistical data for the purpose of facilitating better understanding of the working days and holiday patterns of employees in Hong Kong. The statistical data to be collected by the C&SD were expected to be available in the first quarter of 2012. Members noted that

the Administration would introduce the Protection of Wages on Insolvency (Amendment) Bill 2011 at the last meeting in the current Legislative Session.

Lastly, I would like to take this opportunity to thank members for their support to the work of the Panel in the past year.

Thank you, President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Education for Non-Chinese Speaking Students

1. **DR DAVID LI:** *President, I have received an increasing number of complaints that the Government has ignored the study needs of those students from non-Chinese speaking (NCS) families who are being affected by the ever-escalating fees charged by most international schools and Private Independent Schools (PISs). Regarding the education opportunities for the NCS students, will the Government please inform this Council:*

- (a) *whether it knows the number of children of foreign nationals who have a Hong Kong Permanent Identity Card and who are currently studying in primary or secondary schools in Hong Kong, as well as the estimated demand for school places from this group of children five years from now;*
- (b) *as I have learnt that several PIS have proposed to introduce building levies on top of their tuition fees, whether the Government has assessed if high building cost is the direct cause of the high tuition fees of these schools; whether it will expand the PIS scheme in the future; if it will, whether it will set limits on expenditures on new buildings of the PIS; and*

- (c) *whether it will actively support the provision of new schools under the Direct Subsidy Scheme which provides a flexible curriculum and adopts English as the medium of instruction, so as to give the NCS students more school choices?*

SECRETARY FOR EDUCATION (in Cantonese): President, my reply to each part of the question from Dr David LI is as follows:

- (a) There is no available information on the overall situation regarding children of foreign nationals who have a Hong Kong Permanent Identity Card and who are currently studying at primary and secondary schools in Hong Kong. As for individual school sectors, the situation is as follows:

In the 2010-2011 school year, there are around 28 000 non-local students studying in international schools, of which around 15 000 are primary students and 13 000 are secondary students. They account for 87% of the total student population in international schools, which serve primarily non-local students who generally hold foreign passports. We regularly conduct surveys to request the schools to provide updated figures, but we did not solicit information as to whether these students are Hong Kong permanent residents (HKPR). As for PISs which serve primarily local students, there are around 1 250 non-local students, of which around 700 are primary students and 550 are secondary students. They account for 13% of the total student population of PISs. Apart from the above students, NCS students with HKPR status may choose to study in public sector schools and schools under the Direct Subsidy Scheme (DSS schools). Among the students studying in these schools, around 7 000 primary students and 5 000 secondary students are NCS students.

We do not possess any reliable statistics to project the demand from this group of children for school places in the coming five years. We will continue to conduct regular surveys on the provision of

school places and student enrolment in order to monitor the supply and demand of school places.

As the international school and PIS sectors develop, the number of school places will increase by around 5 800 in the coming five years. In addition, public sector schools will also ensure sufficient supply of school places to cope with the demand from NCS students.

- (b) Under the prevailing policy, PISs can apply to the Government for a capital grant for the construction of their school premises, the amount being no more than the cost for constructing a standard design public sector school accommodating the same number of students. If a PIS wishes to upgrade its facilities to enhance the teaching and learning environment for the benefit of students, the school should bear the cost of providing the above-standard facilities and equipments or the cost of any expansion projects to be carried out at a later stage. In the approval process of the school building projects or considering the expansion proposals from individual schools, the Education Bureau would request the schools to undertake that they have sufficient financial resources and reserve to fund the self-financed works.

Should PISs wish to collect levies for upgrading their school facilities, we will ask the schools to explain to parents the details and purposes of the school development projects and the collection of levies, and to solicit their support for the projects concerned.

The eight existing PISs have progressively come into operation over the past seven years. We will keep in view the operation of individual schools and we will consider whether to take forward any new PIS projects taking into account the development and needs of the community.

- (c) At present, there is still surplus of public sector school places, including those offered by DSS schools. Hence, there is no need to operate any new schools to meet new demand. As for application from aided schools to turn into DSS schools, they will not affect the supply and demand of school places. As such, we will assess any

such application by having regard to the school facilities, quality, sustainability and financial position based on established principles.

DSS schools enjoy flexibility in curriculum design and choice of medium of instruction (MOI) for different subjects in the curriculum. They can choose the most appropriate MOI for different subjects in the curriculum in accordance with the language abilities and needs of students. Besides, under the fine-tuned MOI framework, public sector secondary schools may make professional judgment on the most appropriate MOI arrangements for their students in accordance with their own circumstances and students' needs.

DR DAVID LI: *President, I am very disappointed with the answer. These children are born in Hong Kong, their parents have been complaining for many years about the lack of school places and the high cost of places that are available. Yet, the Government has no information on these students. How is this possible? What will the Government do to rectify this injustice?*

SECRETARY FOR EDUCATION (in Cantonese): I think we should understand that many Hong Kong permanent residents hold foreign passports. Some children who hold foreign passports have not declared that they are Hong Kong permanent residents upon admission to schools; and *vice versa*, many Hong Kong permanent residents have not declared that they hold foreign passports. Thus, we cannot examine the actual identity of each of them. So, we have difficulties in providing the relevant figures as requested by the Member. In any case, there are adequate school places for NCS students under the existing education system. As I have said in my main reply, places are provided by many different schools, including PISs, DSS schools and international schools, and NCS students are also admitted to public sector schools. For this reason, there are a lot of opportunities and I do not think that we have not made enough efforts to meet their needs.

DR PHILIP WONG (in Cantonese): *President, I opine that it is vital to achieve biliterate and trilingual proficiency. Will the Government allocate more resources to achieve this objective so that more students, especially NCS students will be benefited?*

SECRETARY FOR EDUCATION (in Cantonese): President, we have such a policy. Under the current examination system, we will not assess the Chinese proficiency of NCS students according to the standards of ordinary Chinese students. This will help enhance their interests in the Chinese language, and it will also be conducive to their future employment and studies.

MRS SOPHIE LEUNG (in Cantonese): *At present, NCS students can study in different types of schools, and many local students are willing to study in international schools or PISs. We all understand that. Although we do not have the relevant figures, will the Secretary study in detail the causes of this phenomenon to ascertain what characteristics these international schools or PISs have that attracted a large number of students? These characteristics should then be introduced into local public sector schools so as to change our public sector schools and give these schools greater autonomy in determining the curricula or subjects. Will the Government consider conducting such studies?*

SECRETARY FOR EDUCATION (in Cantonese): President, I believe the crucial factor is that we have to pay a price. If we require additional services, the operation of schools will need more money. Basic education as currently provided by the Government well enables a student to establish himself firmly in society or pursue further studies after the completion of studies. However, the schools mentioned by Mrs Sophie LEUNG just now can cater to the needs of different parents. Some parents want schools to teach entirely in English or in Putonghua, and they may have higher requirements in respect of various other services. For example, some parents would like the schools to provide more sports facilities; and parents have to pay more to buy such services. We only provide basic services in public sector schools and we have not considered the provision of other services. Certainly, other schools such as PISs and DSS schools will cater to the requirements of parents and provide appropriate services. If parents have such needs, I believe more schools may consider operating under DSS so as to meet their demands.

MR PAUL CHAN (in Cantonese): *President, at the meeting of the Panel on Education on 14 February, many parents from NCS families indicated that they would like their children to experience at school the integration between Chinese*

and English culture beyond the curriculum, thereby promoting respect for diversified culture and harmony. Nevertheless, the authorities have not specifically responded to their appeals.

President, will the Secretary undertake to allocate resources to new schools to be established in the future through the DSS and PISs so as to achieve this objective?

SECRETARY FOR EDUCATION (in Cantonese): President, I trust that Members also understand that these schools are independent and autonomous, and they are also financially self-sufficient. For this reason, if we ask them to provide additional services, I believe the objectives of the school sponsoring bodies, the targets and demands of parents are factors for consideration. If parents' requests are reasonable and the schools can meet such demands given their financial capabilities and resources, I think that they would be willing to consider doing so.

MR PAUL CHAN (in Cantonese): *President, I was just asking if the Government would allocate resources and encourage schools to do so.*

SECRETARY FOR EDUCATION (in Cantonese): I have just said that these schools are self-sufficient. The Government only provides the basic expenditure, all other additional resources or services have to be undertaken by the school.

MS CYD HO (in Cantonese): *The largest English education institution in Hong Kong is the English Schools Foundation (ESF) but it is neither fish nor fowl. First, like public sector schools, the ESF receives subsidies from the education authorities, but the amount received by ESF students are much less than that of other students. Second, like private schools, ESF schools collect schools maintenance fees from parents. How can the Secretary ensure that parents can afford the charges of ESF schools? How does the Government define the positioning of ESF schools?*

SECRETARY FOR EDUCATION (in Cantonese): I believe we will have the opportunities to have detailed discussion on this subject. In fact, we will submit a paper to the Panel on Education next week, on 11 July, to discuss specifically how to deal with schools under the ESF.

President, the major issue is that the ESF is a historical problem to be solved. As Ms HO has said, it is now neither fish nor fowl, that is due to historical development. Subsidies are given annually but the amounts remain unchanged. Hence, schools have to seek funding when there are additional costs, moreover the increases in staff salaries also lead to higher costs.

The most fundamental task for us is to review the purpose for the operation of ESF schools and consider if the previous requirements are still adequate at this time. If they are not, we have to consider the objectives to be achieved and whether the Government has to continue to subsidize those schools. If we will continue to subsidize those schools, should the subsidy amounts remain at the prevailing levels? Alternatively, should appropriate financial arrangements be made? We are asking the ESF to carefully examine the future expansion or renovation of ESF schools. We have briefly explained the relevant progress in the paper to be submitted to the Panel on Education that I just mentioned. As for an overall review, a conclusion will only be reached around the end of the year. We will then consider how the ESF should continue operating.

MS CYD HO (in Cantonese): *President, the Secretary has not answered my question. In the past, we had plenty of opportunities to hold discussions but we had not reached a conclusion. Can the Secretary tell me simply what his position of the ESF is? Has the Government really allowed it to be neither fish nor fowl as I have just said?*

PRESIDENT (in Cantonese): Ms HO, the Secretary has already given a detailed answer.

MR CHEUNG MAN-KWONG (in Cantonese): *President, as the Secretary has mentioned in his main reply, should PISs wish to collect levies for upgrading their school facilities, they have to solicit parents' support for the projects concerned. Can the Government inform this Council whether parents are*

defined as parents' associations or individual parents? If individual parents do not support the project, can they refuse to pay the extra levies? As their children are already studying in those schools, do they have to transfer to other schools half-way? Can the Government regulate such levies or should the levy be approved by the Government first after considering certain factors, such as whether the levies are reasonable, the amounts are excessively large, and whether there are refund mechanisms; especially whether parents are allowed to refuse to accept the collection of levies, thus preventing schools from increasing tuition fees in disguise under the pretext of collecting levies, so that parents will not be trodden upon and exploited?

SECRETARY FOR EDUCATION (in Cantonese): We have actually asked schools to declare to us their development plans in advance. We would sign a 10-year operating agreement with these schools, and the requirement of advance declaration is a part of the terms of such agreement. If schools have signed the agreement and parents already know upon the admission of their children that there are expansion projects, I believe that the schools should have consulted parents about the levies.

Regarding Mr CHEUNG's question, we have asked schools to consult all parents rather than parents' associations. They should then report to us their views of parents on the proposed levies so that we can consider whether the collection of levies should be approved. We have different forms of protection in this connection.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the crucial point in my supplementary question is whether parents can refuse to accept the collection of levies. Since very often, children would study in the same school from primary to secondary level; if parents refuse to accept the increase in tuition fees and the collection of levies, the children cannot continue to study in the school.*

SECRETARY FOR EDUCATION (in Cantonese): We have not yet come across such cases. I believe that very often, the various parties would negotiate to arrive at the best solution. I trust that schools do not want to implement a measure that would lead to mass drop-out.

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Last supplementary question.

DR MARGARET NG: *President, foreign national parents living in Discovery Bay have complained that there are long waiting lists for the school within the estate, and some parents pay expensive non-refundable debentures so that their children may jump the queue. Nevertheless, a school project awarded to the Catholic Diocese under the 2002 School Allocation Exercise remains unbuilt. Will the Secretary advise why construction has not begun and will he make a commitment to move forward with this project?*

SECRETARY FOR EDUCATION (in Cantonese): Concerning the demand for school places, we must take the overall situation into consideration. As I have stated in my main reply, the supply of school places in Hong Kong generally exceeds the demand at present, thus we have taken the initiative to reduce class size in secondary schools this year with a view to maintaining the healthy development of schools. I also understand that, in individual districts, especially the remote Discovery Bay, residents depend on ferry or other services for access to the city centre. Therefore, parents certainly want schools to be provided nearby. Yet, we have to consider the overall situation and we will continue to monitor the relevant situation.

DR MARGARET NG: *President, it seems that the Secretary has no idea of what is going on. Can I ask him to provide written supplementary information, particularly regarding the commitment of the Government on this project?*

SECRETARY FOR EDUCATION (in Cantonese): We are going to provide a written reply. (Appendix I)

PRESIDENT (in Cantonese): Second question.

Protection of Workers Against Heat Stroke

2. **MS LI FUNG-YING** (in Cantonese): *President, it has been reported that from early May to mid-June this year, there were no less than 27 incidents in Hong Kong of members of the public suffering from heat stroke, among which there were at least nine cases of members of the public suffering from heat stroke in the course of employment. Given the arrival of the long summer days in Hong Kong, will the Government consider legislating for the mandatory enforcement of the guidelines on "Prevention of Heat Stroke at Work in a Hot Environment" of the Labour Department (LD) and reviewing the Employees' Compensation Ordinance to streamline the procedures for employees to claim compensation for complications triggered by and personal injuries resulted from heat stroke in the course of employment, so as to enhance protection of employees?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, at present, the Occupational Safety and Health Ordinance and the Factories and Industrial Undertakings Ordinance require that employers must, so far as reasonably practicable, ensure the safety and health at work of their employees. As such, if employees need to work during hot weather, employers have the responsibility of considering employees' risk of heat stroke, including such factors as temperature, humidity, air movement, radiant heat, nature of work and workload, employees' clothing, and whether employees can adapt to the hot environment. They should then take appropriate preventive measures commensurate with the needs of different industries and different jobs.

Through education, publicity and enforcement, the LD raises employers' and employees' awareness of the risk of heat stroke and preventive measures, and helps them comply with the foregoing legal requirements. On the education front, the LD has published a guide on the prevention of heat stroke at work in a general hot environment and practical methods for assessing the risk of heat stroke. These methods include arranging outdoor work in cooler periods during daytime, providing mechanical aids to reduce the physical exertion of workers at work, providing adequate drinking water and reminding workers to drink more water, erecting a shelter at the workplace and rest area to shield off direct sunlight, enhancing ventilation at the workplace, arranging for workers to take rest breaks at intervals, and providing relevant information, instructions, training

and supervision. Besides, the LD has published tailor-made checklists for employers in the construction and cleansing industries to assess the risk of heat stroke in these specific working environments.

On the publicity front, the LD organizes health talks, broadcasts publicity messages through different media, distributes promotional materials, and broadcasts public announcements on television and radio and issues press releases in response to weather conditions to remind stakeholders to pay due regard to the prevention of heat stroke. The LD also publicizes relevant messages in collaboration with the Occupational Safety and Health Council, Construction Industry Council, relevant employers' associations and workers' unions, such as conducting promotional visits to construction sites and outdoor cleansing workplaces to promote the prevention of heat stroke among workers on site.

On the enforcement front, the LD inspects outdoor workplaces with a higher risk of heat stroke during summer every year, and takes out immediate enforcement actions if employers are found violating the legal requirements, such as failure to provide employees with drinking water.

Besides, the Employees' Compensation Ordinance stipulates that if an employee sustains an injury or dies as a result of an accident arising out of and in the course of employment, including injury or death resulting from an accident caused by heat stroke at work, the employer should be liable to pay compensation. Incidents of heat stroke depend generally on a multitude of factors including environmental factors, work factors and personal factors. It is, therefore, inappropriate to determine whether a case should fall into the ambit of the Ordinance by solely relying on the heat stroke symptoms suffered by an employee. The procedure of handling cases of heat stroke at work is similar to that of normal cases. Upon receipt of notification by an employer, the LD will collect relevant information of the case, including investigation reports and medical reports, and so on, and, if necessary, consult Occupational Health Officer, with a view to assisting the employer and the employee in handling the claim for compensation promptly.

MS LI FUNG-YING (in Cantonese): *Secretary, generally speaking, employees who suffer from heat stroke only feel sick, dizzy and lose consciousness temporarily. Doctors usually grant ordinary sick leave for them to rest for one*

or two days. Employees may not receive sickness allowance as many organizations require that sickness allowance will only be granted if their staff has taken sick leave for four consecutive days.

I wonder if the Secretary has read today's newspaper. It is reported that a bus driver and a contract worker of the Food and Environmental Hygiene Department suffered from heat stroke yesterday, and were sent to the hospital for treatment. May I ask the Secretary what assistance would be given to workers of similar cases to claim compensation in accordance with the Employment Ordinance and the Employees' Compensation Ordinance?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): We are very concerned about the working condition of workers in hot weather. I have therefore stated clearly in the main reply that the issue would be addressed through publicity, education and enforcement. Every summer between April and September is the peak season for heat stroke, and a series of inspections will be conducted. There is no exception this year. In 2009, some 8 000 inspections had been conducted, and prosecutions and warnings had also been issued. This year, there will be more inspections than before as inspection efforts have been stepped up.

Ms LI Fung-ying mentioned about compensation. She should be well aware that established procedures have been put in place. If we can prove that an employee — as stated clearly in my main reply and the Employees' Compensation Ordinance — sustains an injury or death resulting from an accident caused by heat stroke at work, there is no way his employer can shun his responsibility and we will definitely follow up the question of accountability.

We have also followed up on the case of a bus driver who allegedly suffered from heat stroke yesterday. In fact, we have liaised with the bus companies and reminded them not to deploy buses without air-conditioning in hot weather. Besides, they should introduce more protective measures by providing, for instance, wet towels and drinking water, and even fans. This would ensure that bus drivers are properly protected. We will continue to follow up the matter with the bus companies. As for employees' compensation for work injuries, follow-up actions will be taken upon completion of the investigation.

MR LEUNG YIU-CHUNG (in Cantonese): *President, prevention is better than cure. Even if compensation is available, I think that this kind of incident is the last thing which workers and employers would wish to see. I therefore hope that the Government will do more to improve the situation. Although the Secretary has stressed the importance of publicity and education time and again, the effect was still not great as a number of incidents happened yesterday. Therefore, may I ask the Secretary has the Government not taken better preventive measures? For instance, should workers be required to take a rest after working continuously for certain hours under the bright sun and hot weather, so as to avoid suffering from heat stroke? Without this requirement, the introduction of other preventive measures would not be too effective.*

Similar arrangements have been made for idling vehicles with running engines, where exemptions have been granted for hot weather. Can the Secretary consider limiting the number of work hours of employees under hot weather such that they can take a rest after working for a certain period of time?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): We consider that pragmatic approaches are more desirable as the working environment may vary. As we all know, industries which are subject to high temperature do not confine to outdoor work, but also indoor work, say, in warehouses, kitchens of restaurants and laundries. The list is inexhaustive and thus we do not only concern about outdoor workers. I nonetheless absolutely agree with what the Member has said. We already got the message across and simple promotion leaflets have been printed. Also, we have developed many easily comprehensible risk assessments and guidelines for employers to take appropriate preventive measures upon completion of the assessments. For instance, outdoor workers should be provided with wide-brim hats with shades at the back to prevent the neck from sun burn; and outdoor workers should wear light-coloured clothing. While employers are required to provide drinking water, workers may also bring their own water. Besides, drinking water should be placed in places easily accessible by workers. The Member was also right in saying that workers should take a rest at appropriate times. And yet, these arrangements would be made subject to the actual situation.

We have also reminded employers of different industries, such as employers of the construction industry, by providing leaflets to them; we have

also issued guidelines to employers of street cleaners. Employers are definitely liable and they cannot shun their responsibilities on the excuse of negligence. They are obliged to ensure that the work environment is proper and safe. Therefore, education and publicity do have an important role to play. Many employers will erect some shades, especially in construction sites, for workers to take a rest and drink some water when necessary before continuing with their work. This is a flexible approach.

Our proposed risk assessment is comprehensive and objective. In fact, not only Hong Kong, the United Kingdom, the United States, Europe, Singapore and Australia have adopted the approach of risk assessments, rather than mandatorily requiring workers to rest after working for certain minutes or suspend their work when the temperature reaches a certain degree. The latter approach has inherent difficulties.

MR WONG KWOK-HING (in Cantonese): *President, in the Secretary's reply, he highlighted the importance of supplying drinking water. However, if a bus driver drinks too much water, President, you should know that this would mean he will have to answer the call of nature. What if the bus driver has such urge when he is driving a bus? Yesterday's accident was lucky amidst the calamities as the bus driver was able to promptly stop the bus. However, there had been many unfortunate events in the past. A mini-bus driver died soon after the enactment of the law to ban idling vehicles with running engines. Therefore, may I ask the Secretary via the President, when will the Occupational Safety and Health Ordinance be extended to cover professional drivers? During the deliberation of the bill to ban idling vehicles with running engines, we were informed by the Government that professional drivers were not protected by the abovementioned Ordinance and I had at that time requested the authorities to review on this issue. Here, I would like to take this opportunity to ask the authorities again, when will they conduct a review to consider bringing professional drivers under protection?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, first of all, I wish to thank Mr WONG for his two questions. Just now he mentioned about buses without air-conditioning. In fact, we have already relayed our concern to the bus companies and they have planned to replace all buses without air-conditioning at the end of this year or early next year. We

have also reminded them to provide cold towels and even cool vests and fans to drivers where necessary. We will certainly follow up on the matter in a pragmatic manner.

As to the question of why the Occupational Safety and Health Ordinance does not apply to professional drivers, this has actually been thoroughly considered by the Bills Committee formed to discuss the ban on idling vehicles with running engines. The reason is pretty obvious because the workplace of drivers (the driving cockpit) is beyond the employers' control but affected by many external factors, such as the traffic condition, road design and pedestrians' compliance with the law when using the road. Neither bus drivers nor employers have control over these factors. Do employers have control over the dangerous situations? If so, they should definitely be held responsible.

This explains why I just said that construction sites and other places are covered by the law, because employers are obliged to ensure the safety of their employees working in these places. Employers can provide employees with a safe working environment.

Nonetheless, what happen on the road is beyond the control of employers. When the relevant bill was discussed a few years ago, we had already thoroughly examined why professional drivers are not protected.

However, this does not mean that we have not protected the professional drivers, leaving them unprotected. As I have said, if a driver suffers from heat stroke, he is still protected under the Employees Compensation Ordinance. The case will be dealt with in a pragmatic way and the Court will judge by facts. If a driver suffers from heat stroke in the course of employment, this is regarded as injury at work. Employers cannot shirk their responsibilities and should be liable for compensation for work injury.

MR WONG KWOK-HING (in Cantonese): *President.*

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR WONG KWOK-HING (in Cantonese): *Yes, the Secretary has not answered when the review will be conducted. He has only given numerous reasons explaining why the Government is reluctant to conduct a review for the time being. I am asking why the Government has not submitted any document for review.*

PRESIDENT (in Cantonese): The Secretary has already answered. Secretary, can you say clearly whether a review will be conducted?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, thank you. I have clearly explained the justifications for not including professional drivers into the Occupational Safety and Health Ordinance. The underlying principles and policy basis have remained unchanged, Mr WONG. And yet, we do appreciate your concern.

I have therefore stressed time and again that in respect of labour rights and interests, if it is so unfortunate that an employee's work and health are affected by injuries or sickness proven to be related to or caused by his work, the employer will still be liable for compensation for the work injury. This would prevent the rights and interests of labour from being prejudiced, which is the most important.

MR IP WAI-MING (in Cantonese): *President, on the Mainland, our neighbouring region Shenzhen has already enacted legislation to govern work under hot weather. I wonder why the Policy Bureau and the LD are still so reluctant to legislate in this regard. Regarding the alleged heat stroke case that happened in the course of employment, has the authorities collected any relevant information?*

President, we noticed from the main reply that only injuries or death resulting from an accident caused by heat stroke at work would be dealt with. How about cases where heat stroke has not resulted in injuries or death? I wish to know if the LD has collected the relevant information and requested the employers to report such cases. Only by doing so can we have a true picture of employees suffering from heat stroke at work under hot weather.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr IP for his two questions. For the first question, Shenzhen used to specify at what temperature workers shall suspend their work. However, this arrangement was abolished in June 2009. Shenzhen has now adopted a mainstream approach by making reference to Hong Kong's risk assessment.

Chongqing still adopts that arrangement. As we all know, Chongqing can be very hot. Thus, the relevant authorities are examining the feasibility of that approach, which is sometimes rather rigid. Actually, the specification of a temperature at which work has to be suspended is not necessarily feasible. This is why Shenzhen has abolished the arrangement in June 2009 and adopted a more comprehensive risk assessment approach with a wider perspective.

Regarding the second question, Members just mentioned a scenario where an employee was not injured at work but only felt sick. Very often, workers suffering from heat stroke may recover after taking a rest or drinking some water. Rest is very important. Dr PAN, who is present at the meeting, is looking at me, so I believe he also agrees.

The case of an employee recovering after taking a short rest break, drinking some water and cooling down in a shade, is tantamount to an employee falling sick. Employers are obliged to report such cases. If the employee concerned recovers in not more than three days, it means that he is not seriously hurt or injured at work, thus the employer concerned is not required to report the case in detail via Form 2. The employer nonetheless has to fill in a simple form within 14 days to notify us. Therefore, we do have the relevant information.

Let me cite an example. Last year There is a simple example this year, but not last year. The figure of last year is pretty complicated. During the first six months of this year, we have handled six cases where employees did not feel well at work and allegedly suffered from heat stroke. We are now following up these cases. Once we have the relevant information, follow-up actions and analysis will be conducted. This is what we have been doing.

DR PAN PEY-CHYOU (in Cantonese): *I wish to follow up and ask a question similar to that raised by Mr WONG Kwok-hing earlier. We consider it extremely unreasonable that drivers suffering from heat stroke in the hot driving*

cockpit are not protected under the Employees Compensation Ordinance. This is because to a professional driver

PRESIDENT (in Cantonese): Dr PAN, let me remind you again that this is not a debate session. Please raise your supplementary question as soon as possible.

DR PAN PEY-CHYOU (in Cantonese): *Fine. The supplementary question that I wish to raise is, given that the workplaces of professional driver are provided by employers, they have much less control than their employers. Actually, employers can improve the conditions of workplaces.*

May I ask the Government, with regard to the working environment of professional drivers, whether it will consider the various factors involved separately? While some factors cannot be controlled by employers, such as the sudden changes of the road conditions, some factors are controllable by employers, such as the installation of air-conditioner inside the driver cockpit. Can we consider and deal with these factors separately so that professional drivers to have proper protection of occupational safety?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, this is another issue which warrants further consideration. I am open-minded on this issue. However, I do not believe it can be resolved overnight. Members said that employers should be required to provide air-conditioners in the driver cockpits, but actually many buses are air-conditioned at present.

For the so-called "hot dog bus", which was involved in yesterday's accident, there are only dozens of them left in Hong Kong. The bus companies have undertaken to phase out all "hot dog buses" early next year, which will all be discharged from service by then. Some people do not wish to see these buses discharging from service for the sake of memory. However, as far as I understand, no matter what, no non-air-conditioned buses will be running on the road early next year or at the end of this year.

Member just now asked whether employers would be asked to provide a proper working environment. We will examine the feasibility after the meeting.

However, concerning the Member's enquiry on whether the Occupational Safety and Health Ordinance can be extended to cover such cases, there are certain difficulties as I have explained. As Members may be aware, employers do not have control over the risk on roads. Therefore, Members should not be confused with the two cases.

I nonetheless appreciate the Member's intention to figure out some ways to protect professional drivers and provide them with a reasonable workplace. I will consider the two issues separately after the meeting.

MR WONG KWOK-HING (in Cantonese): *This is the second time I raise a supplementary question. However, I am not going to ask about professional drivers as the Secretary has undertaken that, after the meeting*

PRESIDENT (in Cantonese): Please raise your supplementary question direct.

MR WONG KWOK-HING (in Cantonese): *Okay, President. Cases of sudden death have become very serious in the construction sector. As at the first half of this year, the Hong Kong Construction Industry Employees General Union has received 12 reported cases of sudden death at construction sites or at work, among which eight were caused by heat stroke. Therefore, I wish to ask the Secretary via the President, whether the authorities have investigated and compiled any statistics on these cases? If an employee suffers from heat stroke and is lucky enough, he will resume consciousness. As the Secretary has said, he may soon resume consciousness after drinking some water or cooling down in the shade. This is undoubtedly a lucky case.*

However, there are different cases of heat stroke which might cause death or sudden death of workers at work. Has the Government conducted any investigation and compiled any statistics, and has it urged the employers concerned to pay compensation? There was once an employer who paid only \$200 to an employee who died suddenly. This is the value of a human life. May I ask the authorities whether they have followed up, investigated, compiled statistics and taken remedial actions against sudden death?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr WONG for his question. We are very concerned about each and every single industrial accident, especially the fatal ones, and we will definitely investigate thoroughly to find out what has actually happened. Firstly, we will find out what has happened. Secondly, we will carry out a thorough study of the whole accident and consider the responsibility to be borne by the employer, the follow-up actions to be taken and the rights and interests of employees. The LD has put in place complementary measures to facilitate employees to follow up their cases. Where necessary, we will seek the advice of doctors engaging in occupational safety and health. Today, a consultant doctor is sitting next to me and we will seriously follow up these cases.

The Member also mentioned cases of sudden death, which I have also noticed recently. However, it is possible that the employees concerned were sick and their death was sometimes caused by complications. It is also possible that they contracted other diseases as a result of overwork or exposure to the sun. Therefore, we will take an overall view whenever such cases happen.

Members can nonetheless rest assured as we will closely follow up each case. We will not let employers get away by simply paying \$200. This is not allowed. Even though an employer has paid \$200; if he should be held responsible, he might have to pay more than \$2 million. We will pursue to ensure that the rights and interests of employees are properly protected.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered if he will compile any statistics and investigate in this regard.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, it is very difficult for us to compile statistics and investigate in this regard. I have in hand some brief information. In response to the question raised by the Member just now, the information in hand shows that there are not many cases of reported death last year.

Many employees have to work outdoor, for instance, drivers, repair workers, construction workers or cleansing workers. The list is inexhaustive. The most important message is that we will be pragmatic, and closely follow up

on each case to find out the causes. Also, unreserved efforts will be made to take remedial actions.

PRESIDENT (in Cantonese): Third question.

Information Security

3. **MR ANDREW LEUNG** (in Cantonese): *President, it has been reported that the breakdown of cloud computing service of a large-scale technology corporation in April this year not only brought thousands of websites to a halt for two days, but also resulted in the permanent loss of some customers' data. There have also been reports that hackers were suspected to have made use of the cloud computing server of this corporation to launch attacks on the payment platforms for online games and entertainment services of a well-known Japanese technology corporation and its subsidiaries in April this year, causing leakage of the personal data (including name, date of birth and email address) of nearly a hundred million users across the globe, and it was believed that the data of over 11 million credit cards had probably been leaked. In this connection, will the Government inform this Council:*

- (a) *given that the Government will progressively re-provision its central information technology (IT) services through adoption of cloud computing technology in the next five years, whether the authorities have re-assessed the information security risk of adopting cloud computing by the Government and strengthened its information security in response to the aforesaid incident; if they have, of the specific details; and*
- (b) *whether or not the legislation on computer crimes have been updated since 1997; of the provisions in such legislation by which information security is regulated; whether the authorities have planned to review and amend the legislation regarding computer crimes; if they have, of the timetable and details of the amendments; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, regarding the attacks on the payment platforms for online games and entertainment services of a well-known Japanese technology corporation in April 2011, causing leakage of personal data, the Privacy Commissioner for Personal Data has met representative of the corporation to find out the detailed accounts of the incident and the remedial measures taken. The relevant update has been provided to the Legislative Council on 22 June 2011 in a written reply.

Cloud computing is a global trend and it offers opportunity to improve business outcomes through increasing agility, enhancing productivity and providing IT services at a potentially lower cost. The Government's adoption of cloud computing is an enabler for business transformation and continuous improvement of public service delivery and support implementation of the underpinning Government policies. It offers the opportunity for the Government to increase the value that the community enjoys from the more extensive use of IT in the Government, and also addresses the rising expectations of different stakeholders.

Regarding the questions raised by Mr Andrew LEUNG, my reply is as follows:

- (a) The Government attaches great importance to information security. We have established comprehensive security regulations, policies, and guidelines on information security to ensure that when bureaux and departments launch their IT systems and services, they have the appropriate security risk management in place and they can meet Government's information security requirements. In adopting cloud computing technology to re-provision Government central IT services, we will ensure compliance with all related regulations, policies and guidelines.

The proposed Government Cloud environment will include the following three types:

- (i) "In-house Private Cloud" owned and operated by the Government;

- (ii) "Outsourced Private Cloud" comprising facilities dedicated to the Government in secure data centres operated by contractors; and
- (iii) "Public Cloud" provided by contractors offering services for use by the public. This type is suitable for generic services where Government does not have much concern on how the contractors provide the services.

We will conduct security risk assessment for the central IT services to be re-provisioned. Based on the importance and sensitivity of the existing systems or information, as well as the prevailing information security risks, we will determine whether the application systems and information are to be placed in the "In-house Private Cloud", "Outsourced Private Cloud" or "Public Cloud". For highly sensitive information, Government would place it in the "In-house Private Cloud" to strengthen security controls. After launching of the IT systems and services, we will periodically conduct security risk assessment and audit to gauge the latest security posture under the ever-changing environment with emerging security threats. In conclusion, the requirements in information security and privacy protection under a cloud computing environment will not be less than a non-cloud computing environment.

- (b) The Government from time to time reviews the existing regulatory framework to fight against computer related crimes. Currently, there are already a number of legislations in relation to computer related crimes. For example, the Telecommunications Ordinance (Cap. 106) prohibits unauthorized access to computer by telecommunications; the Crimes Ordinance (Cap. 200) combats access to computer with criminal or dishonest intent; the Theft Ordinance (Cap. 210) combats offences of destroying, defacing, concealing or falsifying records kept by computer; the Personal Data (Privacy) Ordinance (Cap. 486) protects personal data privacy; and the Unsolicited Electronic Messages Ordinance (Cap. 593) tackles illegal activities related to the sending of commercial electronic messages with the intent to deceive or mislead recipients as to the source of such messages.

MR ANDREW LEUNG (in Cantonese): *President, the Secretary mentioned in the main reply that "the requirements in information security and privacy protection under a cloud computing environment will not be less than a non-cloud computing environment". But as a matter of fact, various large websites, particularly those of technology companies, are targets of hackers. Hackers do not target individual persons, but information security loopholes. With technologies advancing and hackers becoming more powerful, how can the Administration safeguard the personal data of individuals from being stolen by hackers? Most importantly, how can the Administration prevent hackers from bringing the entire Government of Hong Kong down?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the Office of the Government Chief Information Officer (OGCIO) continues to organize different events in collaboration with industry and professional bodies to enhance public awareness of the need and knowledge to protect their computer resources and information assets. At the same time, we publish security related news reported in Hong Kong and overseas in our information security portal <www.infosec.gov.hk> to safeguard information security of the citizens.

In terms of protecting information assets and information security, we encourage members of the public to adopt some precautionary measures. For example, they should install and activate anti-virus software and make sure that an up-to-date virus signature file has been applied; schedule a virus scan when the computer is turned on, or perform a full system scan periodically; install the latest security patches programmes provided by the developer of the operating system or software, or update the relevant programme; use passwords carefully and change them regularly; and install a firewall on personal computer. Moreover, they should not open suspicious emails or visit un-trusted websites because they might be linked to malicious websites causing phishing attacks. The public should always be cautious when giving off sensitive information.

All these information security measures can be adopted by personal users. The Government's information security portal also contains a list of anti-virus freeware and trialware (offered with certain conditions) available for download and installation so that the public can safeguard information security of their computers.

MRS SOPHIE LEUNG (in Cantonese): *President, the group of hackers which attacked the payment platforms for online games and entertainment services of the Japanese technology corporation, the United States Corporation for Public Broadcasting, the Central Intelligence Agency, the United States Senate, and so on, had threatened to launch hack attacks in a number of countries. I want to know what the Administration would do to prevent such probable attacks in the future?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to Mrs Sophie LEUNG for the supplementary question. Information security is in fact an ongoing and evolving process. With ever-changing IT developments, many security threats will emerge. The changing behaviour of users and growing popularity of social networking websites have in fact presented challenges in terms of information security.

In this regard, the Government has always adopted a host of measures based on the prevention, detection, response and recovery of the system. In fact, bureaux and departments have adopted various technologies, tools and measures, such as firewalls as well as intrusion detection and prevention systems to guard against security threats and attacks on the Internet. Individual bureau and department must also formulate their own security measures, contingency plans as well as business co-ordination and continuity arrangements. As I just said in the main reply, they must conduct periodic reviews to update the security measures.

Separately, the Government Information Security Incident Response Office has been established with members from the Security Bureau, the OGCIO and the Hong Kong Police Force. In case of emergencies, such as malicious attacks from hackers, the Office will be responsible for central co-ordination and liaison in handling such security incidents. That is the internal practice of the Government.

As Mrs Sophie LEUNG has just mentioned, very often, local websites were primarily attacked by foreign hackers. Hence, our co-operation with international organizations overseas is very important. Under the established mechanism, the Government would join hands with relevant international organization to combat hackers and fight against computer crimes. For

example, through international organizations such as the Interpol and the Cyber Crime Technology Information Network System, the Hong Kong Police Force has been fighting computer crimes with other countries and territories. Moreover, being members of Hong Kong China to the Asia-Pacific Economic Cooperation Telecommunications and Information Working Group, both the Office of the Telecommunications Authority and the OGCIO have participated in joint actions taken by international organizations in combating hack attacks.

MR JEFFREY LAM (in Cantonese): *President, I would like to ask the Secretary, what kinds of services are envisaged under the "Public Cloud"? Will users be required to place personal data in this platform, and whether this platform will store personal data of users?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): *President, in fact, generic services will be provided through the "Public Cloud", which relate to public information accessible to the general public. Given our concern on security, there is no need for members of the public who make use of such services to provide any personal data. Let me cite an example. Traffic information is relatively non-sensitive and the public can access real-time traffic information or other information on Government websites. Hence, leakage of personal data should not be an issue for services provided on the "Public Cloud".*

MR WONG TING-KWONG (in Cantonese): *President, my question for the Secretary is that after the Government has fully re-provisioned its central IT services through adoption of cloud computing technology, this technology must also be adopted by non-governmental organizations or bodies in collaboration with the Government, in case they need to use cloud computing technology to communicate, liaise and work with relevant government departments. I would like to know whether assistance will be provided by the Administration to these non-governmental organizations or bodies to enhance their Internet security and risk management?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, thanks to Mr WONG for his supplementary question. The Government will continue to make use of existing channels, such as the information security portal I mentioned earlier, as well as seminars, symposiums and promotional leaflets, to disseminate information on Internet security and risk management to the public and non-governmental organizations. In fact, cloud computing is just a mode for providing government services. The security issues relating to the use of cloud services by the public are no different from those associated with traditional electronic services.

When providing services through the cloud platform, the Government will ensure service providers' compliance with the general security guidelines and requirements of the Government. The Government will also conduct risk assessment periodically to ensure the integrity of our security system against the latest situation. We will also ensure that the cloud services provided are most up-to-date, effective and free from security risks and threats.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR WONG TING-KWONG (in Cantonese): *No, my supplementary question is related to the provision of assistance, that is, will the Government provide any subsidy?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): As I just mentioned in my reply, cloud computing is in fact just an ordinary mode for providing services. The risks involved are similar to traditional electronic services. Therefore, what we are doing now is to disseminate information on Internet security and risk management to the public and non-governmental organizations. We will do so through different channels, such as our information security portal, online databases or seminars so that the relevant information is properly disseminated to ensure sound information security.

DR SAMSON TAM (in Cantonese): *President, in his replies just now, the Secretary has mentioned repeatedly work initiatives on information security done in the past 10 or eight years, yet I consider them to be highly inadequate because instead of stand-alone attacks from individual persons, we are now facing attacks from international hackers. Guidelines have already been issued by the OBAMA administration that hack attacks are classified as a form of international threats and deemed as acts of war. Hence, if considered from this perspective, this is not a matter the Commerce and Economic Development Bureau can handle. I hope the Secretary will make reference to the practice of foreign governments and consider how this matter can be escalated to the level of national defense and security.*

President, my question is: Given that the Government's stance is still open, and cloud computing is so important as a major trend adopted by many countries, I am more concerned about the types of information that are suitable or not suitable to be placed in the cloud platform.

In his main reply, the Secretary said that highly sensitive information would be placed in the "In-house Private Cloud". In this connection, I would like to ask the Government what the definition of "highly sensitive information" is? Regarding information placed in the "In-house Private Cloud", will the Government inform the public of the same so that they know what sort of information has been uploaded on the Internet?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): *President, I will first respond to the first part of Dr Samson TAM's question. In terms of security, we must indeed co-operate with international organizations. As I replied just now, an established mechanism is available for the Government to join hands with other international organization in combating hack attacks. I have also mentioned in the main reply earlier that three modes or three types of Government Cloud environment will be available to cater for information of varying degrees of sensitivity.*

We are now in the process of policy formulation, that is, at the design stage. The general direction envisaged is that the most sensitive information will be placed in the private cloud, and general public information will be placed in the public cloud. Any members of the public can access the public

information which covers a wide range of areas in the public cloud. Of course, due to the privy nature of sensitive information, we will consider different factors in the process of policy formulation so that suitable arrangements can be made.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

DR SAMSON TAM (in Cantonese): *The Secretary said that a decision on the classification of sensitive and non-sensitive information has yet been made. Part of my supplementary question is about whether the Administration will make public its classification decision after a decision has been made, so that members of the public will know that their personal data has been placed in the In-house Cloud?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, in fact, many different kinds of data is related to members of the public. If they are informed of the location of storing such data When members of the public access the cloud computing environment, we consider that if there are adequate internal security measures and when they browse In the application of cloud computing, it will be important to ensure the proper storage of data in the cloud platform. Hence, certain technical difficulties are involved. We opine that from the perspective of the overall policy, it will be an appropriate arrangement if suitable security measures are adopted.

PRESIDENT (in Cantonese): Fourth question.

Development of Aviation Services

4. **MR ALAN LEONG** (in Cantonese): *President, it is projected in the Hong Kong International Airport Master Plan 2030 (Master Plan 2030) that if a third runway is constructed, the practical maximum annual runway capacity will be about 620 000 air traffic movements (ATMs). It has been reported that if the*

Mainland does not relax its prevailing constraints on airspace for civil aviation, which include the restrictions on access to the airspace within the Pearl River Delta (PRD) region, coupled with the full implementation of the policy on cross-straits direct flights (direct flight policy) hopefully in the near future, the runway capacity of the Hong Kong International Airport (HKIA) will be affected and it may not be able to reach the level as projected in the Master Plan 2030. In this connection, will the Government inform this Council:

- (a) on what basis the aforesaid runway capacity has been estimated, and if it includes the impact of whether the airspace of the Mainland is fully open; whether the authorities have reached consensus with the relevant Mainland authorities with regard to the opening up of the airspace; if not, of the measures the authorities will take to ensure that the runway capacity will reach the projected level;*
- (b) whether the authorities have studied the impact of the full implementation of the direct flight policy on the HKIA's passenger and cargo throughput; if they have, of the details; if not, the reasons for that; and*
- (c) given that in the planning outline for the HKIA in 1992, it was originally expected that its runway capacity would reach 75 ATMs per hour, but according to the report of the experts from the United Kingdom quoted in the Master Plan 2030, the practical maximum runway capacity of the existing runways in the HKIA can at most be increased to 68 ATMs per hour, which falls short of the original projection by seven ATMs, and in reply to a question raised by a Member of this Council in 2010, the authorities also indicated that (I quote) "the operating environment of the HKIA is unique, with high terrains together with a complicated and restrictive airspace surrounding the airport" (end of quote), whether the authorities have considered such factors in estimating the runway capacity of the HKIA after constructing the third runway; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President,

- (a) During the Master Plan 2030 Study, the Airport Authority Hong Kong (AAHK) commissioned National Air Traffic Services (NATS) in the United Kingdom as professional expert consultant to carry out airspace and runway capacity analysis. The NATS is an experienced provider of air traffic management services, providing air traffic control services to aircraft flying in the United Kingdom airspace and over the eastern part of the North Atlantic.

At present, the HKIA adopts an independent segregated mode of operations, that is, one runway exclusively for departures and the other exclusively for arrivals. The maximum capacity of each runway is not limited by the other runway. The practical maximum capacity that can be achieved with two runways will be 68 ATMs per hour.

Even if the existing segregated mode of operations is changed to a mixed mode of operations (that is, both departures and approaches can take place on each of the two runways), the practical maximum capacity of the two runways will not be increased. It is because, in accordance with the standards of the International Civil Aviation Organization (ICAO) and having regard to the terrain constraints surrounding the airport, a consistent approach spacing of 8 nautical miles has to be applied to both runways, if the mixed mode of operations is adopted, resulting in an hourly capacity of 34 ATMs for each runway

(The microphone was interfered by radio waves of a mobile phone)

PRESIDENT (in Cantonese): Will public officers and Members please turn off your mobile phones. Secretary, please continue.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Let me repeat a little of what I have just said.

According to the standards of the ICAO and having regard to the terrain constraints surrounding the airport, a consistent approach

spacing of 8 nautical miles has to be applied to both runways, resulting in an hourly capacity of 34 ATMs for each runway or a total of 68 hourly ATMs for both.

According to the Technical Report of the AAHK's Master Plan 2030, the projected practical maximum capacity of the three-runway system is about 620 000 ATMs per annum. The basis of this projection is as follows:

- (i) in accordance with the ICAO standards and having regard to other relevant factors (including the terrain, airspace, traffic mix, weather, and so on), the AAHK's consultant recommends that the best arrangement and handling capacity of a three-runway system is as follows: the third runway recommended for arrivals, with a the capacity at 33 ATMs per hour; the second runway recommended for departures (that is, the existing north runway) at 35 ATMs per hour; and the first runway recommended for mixed mode (that is, the existing south runway) at 34 ATMs per hour, totalling 102 ATMs per hour;
- (ii) on the basis of 102 ATMs per hour, the AAHK's consultant estimates the practical maximum movements to be about 1 800 per day. This is based on the historical flight movement pattern of a typical busy day, having regard to a number of factors, including the runway closure at night for routine maintenance; the matching of slot availability at the HKIA and destination airports; typical hourly fluctuations of a busy day; and the provision for recovery periods to cater for operational delays; and
- (iii) the practical maximum movements of about 620 000 per annum can be derived on the basis of the daily practical maximum movements of 1 800 and having regard to the historical seasonal adjustments in flight movements (with reference to the flight schedules published by airlines twice a year for the summer and winter seasons).

The Civil Aviation Department (CAD) has been discussing with the Civil Aviation Administration of China (CAAC) and the Macao Civil Aviation Authority (MCAA) to enhance the PRD airspace. The tripartite working group has reached consensus on the target and measures relating to the planning of the optimization of the PRD airspace structure by 2020. The three sides have agreed to adopt the principles of joint airspace planning, use of common standards and harmonized flight procedure design. To enhance airspace planning and air traffic management in the region, the three sides have agreed to jointly pursue comprehensive airspace regime interface procedures and standards, which cover measures to rationalize airspace design, enhance flight levels allocation, standardize interface and protocols of air traffic control systems, and establish additional civil aviation routes for flights to and from the northern part of the Mainland. To achieve the targets, the three sides have begun to progressively enhance the air traffic management operations and rationalize the PRD airspace management, air traffic control and flight procedures.

Through the concerted efforts of the three sides, an additional handover point and a corresponding air route have been established between the Guangzhou and Hong Kong Flight Information Regions since end 2006 to cater for flights overflying Hong Kong and landing in Guangzhou. The assessment relating to the airspace adjustment proposals of the Zhuhai Terminal Area was completed last year (that is, 2010) and the proposals were implemented in April this year. Apart from addressing the forecast ATMs in the PRD, the relevant enhancement measures have adequately taken into account the three-runway operating mode at the HKIA and provided sufficient airspace for the practical maximum capacity of about 620 000 ATMs per annum, as envisaged in the three-runway system in the Master Plan 2030.

- (b) The Mainland and Taiwan signed the Cross-Strait Air Transport Agreement in November 2008, formally establishing weekday charter flights. The Agreement has since been expanded several times, establishing scheduled flights and gradually increasing frequencies and the number of points served. The SAR

Government has been paying attention to the development of Three Direct Links between the Mainland and Taiwan, in order to assess its impact on Hong Kong and to seize opportunities arising from the new circumstances. Our assessment at the time was that the number of passengers transferring via the HKIA between the Mainland and Taiwan would be affected to a larger extent. The cargo that originally went via Hong Kong between the Mainland and Taiwan would also be affected to a larger extent because such cargo was only transshipment at the HKIA without involving other logistics processes in Hong Kong.

At present, cross-strait direct flights cover most of the major points on the Mainland. Before the commencement of the cross-strait direct flights, the passengers and cargo between Hong Kong and Taiwan in 2007 represented 18% and 13% of the HKIA's total throughput respectively. In 2010 (that is, last year), the passengers and cargo between Hong Kong and Taiwan increased by 4.1% and 14.2% respectively, compared with 2009, while last year the Hong Kong-Taiwan passenger and cargo traffic represented 15% and 11% of the HKIA's total throughput respectively.

The air traffic demand forecast of the Master Plan 2030 adopts a GDP regression based forecasting model. After assessing various market change factors (including the cross-strait direct flights), the AAHK's consultant has adjusted the regression-based traffic forecast for 2030.

The increasingly frequent economic activities between the Mainland and Taiwan help to stimulate new demand for air travel, and the abovementioned short term negative impact on the passenger and cargo volume has been mitigated. The Mainland's relaxation on individuals' travel to Taiwan and the increase in cross-strait tourism and trade activities are expected to stimulate further growth in the passenger and cargo market between Hong Kong and Taiwan.

- (c) The claim about some 70 ATMs per hour is an ideal number assuming no terrain constraints on operations. In the 1992 New Airport Master Plan, the practical maximum capacity of the two

runways in the independent segregated mode was 52 ATMs per hour while the practical maximum capacity of the two runways in the dependent mixed mode was 69 ATMs per hour. However, as the HKIA is subject to the actual nearby terrain constraints, the 68 ATMs per hour at the HKIA is the practical maximum capacity of the existing two runways.

The AAHK's consultant also confirms that in both the independent segregated mode and dependent mixed mode of operations, the practical maximum capacity of the two runways is 68 ATMs per hour.

When assessing the practical maximum runway capacity of the three-runway system, the AAHK's consultant has, in accordance with the ICAO standards, comprehensively analysed the terrain surrounding the HKIA, navigation equipment and airspace.

MR ALAN LEONG (in Cantonese): *President, may I ask the Secretary, in part (a) of the main reply, he indicated that in arriving at the adjustment, relevant authorities in Hong Kong, Macao and Guangzhou have adopted the principles of joint airspace planning, use of common standards and harmonized flight procedure design. The Secretary should be aware that according to planning, the Baiyun Airport will have five runways in future while the Shenzhen Airport will have three. Is the adjustment which seeks to achieve a runway capacity of 620 000 ATMs made on the premise that the restrictions on access to the military airspace will not be lifted, or is it made with the anticipation that the restrictions concerned will be lifted by the time when all these runways are put into commission in future?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, improving the PRD air traffic is in the interests of the Mainland, Hong Kong and Macao. Thus, in this connection, the CAD has conducted negotiations and discussions with the CAAC and the MCAA. The three sides have established a working group since 2004 to follow up this matter. The consensus reached by the concerted efforts of the three sides has already taken into account the factor of how to optimize and adjust the structure of the PRD

airspace by 2020, the need for Hong Kong to increase its runway capacity to 68 ATMs per hour by 2015, as well as the long-term planning of the extra runway capacity if a third runway is constructed in Hong Kong. In other words, the optimized airspace should be able to achieve the above targets and be able to meet and fulfil the needs of Hong Kong.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR ALAN LEONG (in Cantonese): *President, he has not answered a point in my supplementary question, which is whether this projection hinges on whether restrictions on access to the exclusive military airspace will be lifted by the air force.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, a major principle agreed by the three sides is that they will jointly develop and use a set of common procedures and standards to streamline in phases the PRD airspace and its air traffic control systems. This direction and target will be able to meet our civil aviation demand by 2015, 2020 or even of a later time.

MR ALBERT CHAN (in Cantonese): *President, regarding the development of a third runway in future, given that the runway will be located further northward by 1 km, there is a higher possibility of airplanes entering the Mainland airspace, which may give rise to different problems in connection with the co-ordination and development with our neighbouring regions. Can the Secretary disclose some information on the usage and runway capacity of the third runway in future in relation to the airspace development of the Mainland? Given that the airspace in the Mainland is largely controlled by the army rather than the civilians, as far as the overall airspace development is concerned, how do the authorities forge a consensus on the civil and military aviation? If the authorities cannot forge a consensus on this subject, will this prevent the realization of the projected maximum runway capacity when the third runway is constructed as proposed by the Government?*

PRESIDENT (in Cantonese): Mr CHAN, it seems that you have repeated Mr Alan LEONG's supplementary question just now in a different way. Secretary, do you have anything to supplement?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): The President is correct. In fact, I have already answered this question. As I have just said, regarding the PRD airspace, the issue has to be tackled because it is the common interest of the Mainland, Macao and Hong Kong. Thus, a tripartite working group has been set up since 2004 to tackle and address this issue. As I have just mentioned, the three sides have agreed to adopt the principles of joint airspace planning, use of common standards and harmonized flight procedure design, in a bid to jointly developing a set of procedures and standards for use by the three sides in future. This set of standards serves to rationalize the airspace, such that in 2015, 2020 or a later time and whether or not the third runway is constructed, the HKIA will be able to cater or meet the demand on its runway capacity and achieve the target of 620 000 ATMs per annum.

MR ALBERT CHAN (in Cantonese): *President, the focus of my supplementary question is slightly different, which ends by asking the Government how it will handle the situation if the runway capacity originally projected by the Government after the construction of the third runway cannot be achieved should a consensus cannot be reached on the civil and military aviation? Our concern is that tens of billions of dollars will be written-off in the end.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the CAAC is one of the parties of the tripartite working group responsible for co-ordination work. The CAAC mainly administers the civil airspace arrangement of the State. The Working Group has reached a consensus after discussion that they will work towards this target. We have the determination to meet our target. We echo that this approach is in line with the air traffic demands of the Mainland, Macao and Hong Kong.

PRESIDENT (in Cantonese): The Secretary does not think it is necessary to mention the military force.

MR ALBERT CHAN (in Cantonese): *President, regarding*

PRESIDENT (in Cantonese): Members have repeatedly mentioned the military force.

MR ALBERT CHAN (in Cantonese): *President, military aviation does not fall under the purview of the CAD; the air traffic rights are largely controlled by the military force.*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the subject at hand is civil aviation. We thus believe that if this proposal has been discussed by the CAAC and the relevant authorities in Macao and Hong Kong, the airspace so planned can cater to the target runway capacity and meet our increasing demand in future.

MS MIRIAM LAU (in Cantonese): *President, may I ask the Secretary whether the Government has assessed in which year the capacity of the two existing runways will reach saturation even if the 46 recommendations proposed by the consultant in 2007 are implemented to increase the maximum runway capacity to 68 ATMs per hour? What is the subsequent annual economic loss that will be incurred to Hong Kong?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): According to our estimation and projection, the runway capacity can reach 68 ATMs per hour by 2015. If the demand continues to rise and that the runway capacity can be expanded by a new runway, we estimate that our runway capacity will be able to meet the increased demand by 2028 or 2029 and meet our civil aviation needs. However, we estimate that the runway capacity will reach saturation by 2020 if we rely only on the two existing runways.

MS MIRIAM LAU (in Cantonese): *Does the Secretary have any estimates on the subsequent annual economic loss that will be incurred if the third runway is not constructed?*

PRESIDENT (in Cantonese): Secretary, do you have the relevant information?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, we will provide the supplementary information after the meeting. (Appendix II)

PRESIDENT (in Cantonese): This Council has used more than 20 minutes on this question. Last supplementary question.

MR FRED LI (in Cantonese): *President, let me put my question this way. The airspace within the Mainland territory is largely controlled by the People's Liberation Army (PLA). Every day, more than 20% of the flights in Hong Kong are China-bound, while the rest are international flights, but this does not mean that the latter will not fly over the Chinese territory. The Guangzhou Baiyun Airport will be expanded, and this is a fact. A third runway will also be constructed in the Shenzhen Airport. The numbers of flights will be substantially increased after the expansion and the two airports will compete with us on the right to use the airspace. If the air traffic is too congested, the departures and approaches will be delayed, or airplanes will have to hover in higher air to wait for approaches as they cannot enter the airspace controlled under the PLA.*

The problem is, with the substantial increase in the number of flights after the construction of the third runway, can the CAAC, which is the party with which we negotiate the airspace issue I just mentioned and not with the PLA, guarantee that we can have full access to the airspace and that the additional flights after the construction of the third runway will not be barred from having full access to the airspace due to airspace restrictions or the fact that the airspace is largely controlled by the PLA?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the expansion of the number of runways in the Guangzhou Airport is subject to the arrangement of the CAAC. The relevant discussion is thus at a national level, consisting of tripartite co-ordination among the CAAC and the corresponding authorities in Macao and Hong Kong. As I explained just now, the consensus reached can meet our demand in 2015, 2020 or at a later time, such that in the light of increasing demand on runway capacity, airspace improvement and enhancement will be able to cater our civil aviation arrangement. Thus, we are of the view that the tripartite agreement which we have reached with the CAAC and MCAA will be conducive to our airport extension plan.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR FRED LI (in Cantonese): *President, my supplementary question is whether the CAAC can acquire information on airspace restrictions from the PLA? At present, such information is largely held by the PLA. In this connection, may I ask the Government whether the CAAC is aware of our needs?*

PRESIDENT (in Cantonese): Secretary, will you answer this supplementary question?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as I just said, air traffic demand in the PRD region is on the increase and the CAAC is well aware of the situation. That is why we have made an effort to work with it so as to increase our airspace flexibility, flight routes and flight points. In fact, this arrangement is conducive to both the Mainland and Hong Kong. Thus, it is on this basis that extension plans are carried out in the HKIA as well as other Mainland airports. The present result ties in with our development momentum.

PRESIDENT (in Cantonese): Fifth question.

Public Consultation on Major Changes to Government Policies

5. **MISS TANYA CHAN** (in Cantonese): *President, it had been the practice of the Government in the past to conduct public consultation on major public policies, for example, the National Security (Legislative Provisions) Bill in 2003 and the constitutional development proposals in 2010, and the relevant consultation work also formed part of the procedures for policy formulation and law enactment. However, regarding the Legislative Council (Amendment) Bill 2011 (the Bill), the Government had decided to introduce the Bill to the Legislative Council, without conducting public consultation, on the basis of the voter turnout rate for the Legislative Council by-election held in 2010 and the public comments about the conduct of by-elections because of the resignation of Legislative Council Members. In this connection, will the Government inform this Council:*

- (a) *whether the Government's decision of not conducting public consultation on the Bill goes to show that the Government has adjusted its principle of conducting public consultation on major policy proposals; if so, of the present principles adopted by the Government in determining whether to conduct public consultation, the way in which public consultation is to be conducted and how the results of public consultation are to be applied after analysing the views expressed by the public; if not, how its decision of not conducting public consultation on the Bill has adhered to those principles;*
- (b) *given that apart from the replacement arrangement for filling vacancies of Legislative Council arising from resignation of Legislative Council Members, the Bill also covers the replacement arrangement for filling vacancies of Legislative Council arising from the death of a Legislative Council Member or a Legislative Council Member being relieved of his or her duties, why the opinions expressed in the community concerning the Legislative Council by-election in 2010 can be interpreted as the community's expression of support for such proposal in the Bill which will deprive voters of their right to vote in those by-elections; given that the Government has not sought the public's view on the replacement arrangement to be adopted for filling vacancies of Legislative Council arising from*

the death of a Legislative Council Member or a Legislative Council Member being relieved of his or her duties, whether it has assessed if the Bill will give rise to controversy in the community; if the assessment outcome is in the affirmative, whether the Government will consider withdrawing the Bill in the light of these results; if the assessment outcome is in the negative, of the reasons for that; and

- (c) *whether the Government can undertake that it will definitely conduct public consultation on all policy changes relating to political system, electoral system and civic rights; if it cannot undertake to do so, of the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, it is the declared policy of the SAR Government to be, as far as possible, open and transparent, and to be accountable to the public. The Government proactively responds to the concerns of the public, and listens carefully to public opinions expressed through various channels in formulating policies and programmes. In each policy area, the relevant subject bureau and department decide how to conduct public consultation on their respective policy proposals. The Home Affairs Bureau and its departments will provide support at the district level.

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

Our reply to the three parts of the question is as follow:

- (a) The Government has not changed the policy on public consultation. The subject bureaux take into account a number of key principles in considering to conduct public consultation exercises, including to carry out consultation in a timely manner in order to provide adequate time for the public to express opinions, to set out clearly the purpose of consultation and the available options, to present to the public detailed information relevant to the issues, and to ensure adequate publicity to be given to the consultation exercises.

We note the recent views on the arrangement of public consultation for the Bill. In dealing with this important issue, the Government has been attaching importance to the discussions in society and the views of the public.

Last January, five Legislative Council Members resigned to trigger a by-election. The so-called "referendum" has led to grave concern in the community. The public generally does not accept the resignation of Members at will and making the Government to drain on considerable public fund for holding the by-election. The public is also of the view that the loophole should be plugged to prevent occurrence of similar incidents in future. More than half of the Legislative Council Members agree that the legislation should be amended.

In the past one and a half years, various proposals for plugging the loophole have been put forward and discussed in the community. Since the Government put forward its proposal nearly two months ago, there has been extensive discussion both within and outside the legislature. After listening to the views, the Government put forward a revised proposal last week. Under the revised proposal, the vacancy concerned will first be filled by a candidate on the same list of the Member who has vacated his seat. If there is no candidate on the same list who can or is willing to fill the vacancy, the vacancy will be filled by the candidate on the list which obtained the largest remaining votes at the general election. If the vacancy cannot be filled by the above methods, a by-election will be held. The proposed revision has addressed much of the opinion expressed by the community over the replacement mechanism. As Members are aware, the Government has decided to conduct a public consultation on the basis of the Bill in order to listen further to the views of the public. After considering fully the views received during the public consultation, the Government will resume and complete the legislative exercise within the 2011-2012 Legislative Session.

- (b) The Government has been listening carefully to the views of the public and revised the proposal. That said, there are still quite some views that if the vacancy arises because the Member has died

or is seriously ill, consideration could be given to continuing to hold a by-election to fill the vacancy.

There is a strong consensus in the community to plug the loophole through consideration of legislative amendments. The Government has a responsibility to respond to the concern of the public. We hope the community will have rational discussion and build greater consensus to plug the loophole to ensure that the concern of the public is addressed.

- (c) This SAR Government has announced from the beginning of its term that our policy would be based on the principle of "Always People First". It is the Government's declared policy to be accountable to the public. For example, around this time last year, the Government conducted public consultation and the constitutional reform was passed by a two-thirds majority, marking an important step in taking forward the constitutional development of Hong Kong. Likewise, as regards the arrangements for public consultation on future policy proposals, the Government will handle them carefully having regard to the issues involved and the views of the community.

MISS TANYA CHAN (in Cantonese): *Deputy President, seeing that we have the Secretary for Home Affairs here to answer the question, I should ask him questions in regard to the Asian Games. However, as my focus is on the Bill, I hope the responsible Bureau, that is, the Secretary for Home Affairs can reply my question. As a matter of fact, considering that 220 000 people have taken to the streets, is the Government's policy really based on the principle of "Always People First" as stated in part (c) of the main reply? The Secretary has also pointed out in a radio programme yesterday that the progress was not satisfactory. Since it was beyond his expectation that the progress was unsatisfactory, which even led to 220 000 people taking to the streets, has he been negligent of duty? Should he take political responsibility for dereliction of duty?*

DEPUTY PRESIDENT (in Cantonese): Are you asking the Secretary for Home Affairs whether he should take up political responsibility for dereliction of duty?

MISS TANYA CHAN (in Cantonese): *No, I want to put the question directly to the Secretary for Constitutional and Mainland Affairs.*

DEPUTY PRESIDENT (in Cantonese): Alright. The Secretary for Constitutional and Mainland Affairs, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, last year, Members of two political parties decided to resign during their term of office, forcing us to conduct by-elections in five geographical constituencies, which were uncalled for. Regarding the so-called "referendum" instigated by the Members, the views of the community have been clear. In the Bills Committee, according to the opinion polls conducted by some political parties, more members of the public were in support of the replacement mechanism to plug the loophole.

Deputy President, the stance of the SAR Government has been firm. We have to respond to views in the community in this regard, and plan for the long-term arrangement and stability of our constitutional system. At the same time, we also have to plug the loophole. The attitude of the Government is very clear. More than half of the Members in this legislature agreed that the legislation should be amended for plugging the loophole. From now on until the completion of the public consultation, we hope to gauge more extensive views so as to come up with ways to resolve the problem together.

MS CYD HO (in Cantonese): *Deputy President, I have a document with me, which is the General Circular No. 7/2008 issued by the Director of Administration to various government departments on "public opinion". I am going to read out two paragraphs therein, one of them is: "The public should be consulted on a subject at as early a stage as possible. Clearly, it would create a negative image for the Government if the public was told that changes cannot be made to a proposal after consultation because it has already developed to an advanced stage." In another paragraph, it states that: "When the public is consulted, the presentation of the subject should make it quite clear that no decision has been taken by the Government and should not prejudice what that decision might be".*

However, as pointed out in the last paragraph of part (a) of the main reply, "the Government has decided to on the basis of the Bill". The controversy in the community is quite clear, the majority is of the view that the right of by-election should be retained and people do not want to be deprived of their right to vote. Yet, the Government still insists that it has not departed from the declared policy adopted for its consultation exercise. It has obviously breached the guidelines and has deceived the public once again. Why, on the issue of voting right, the Government has to be so draconian and insolent that it does not comply with the internal guidelines and conduct a pseudo consultation on the basis of a preconceived conclusion?

DEPUTY PRESIDENT (in Cantonese): Which Secretary do you put the question to?

MS CYD HO (in Cantonese): *I am asking Secretary Stephen LAM.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, in dealing with the issue of plugging the loophole, we act in accordance with the views collected. The opinion polls conducted by your political party showed clearly that most of the respondents were of the view that it would be necessary to plug the loophole, and they were in support of the replacement mechanism. If the scope of the replacement mechanism were to be narrowed down to handling the resignation of legislators, the supporting rate will be higher. As shown by this opinion poll, the public is of the view that the loophole should be dealt with, so that legislators will no longer be allowed to resign at will. This is a clear view within the community

In conducting the public consultation, the present Bill will be based on as a starting point. However, in the meantime, we have collected other opinions through the Bills Committee. There is a suggestion that cases of death or serious illness should be taken out and by-election should continue to be held to fill the vacancy. Members also suggested that we should consider restricting Members who have resigned from participating in any by-election in the same term. In the consultation paper, we will of course set out various views. In the two-month public consultation, there will be ample opportunities for substantive discussion. We also welcome various parties to present their views to the

Government. We will publish all the submissions received, come up with a concluding report, then present it to the legislature and the public before deciding on the timetable of resuming and completing the legislative exercise. As such, the consultation process is open.

DEPUTY PRESIDENT (in Cantonese): Which part of your question has not been answered?

MS CYD HO (in Cantonese): *The reply of the Secretary obviously*

DEPUTY PRESIDENT (in Cantonese): Ms HO, you only need to point out the part that has not been answered.

MS CYD HO (in Cantonese): *Deputy President, I will. Yet, first of all, I must point out that the reply of the Secretary is in fact based on a presumption that the by-election arising from resignation is a loophole. Yet, as it is stated in the guidelines that we "should not prejudge what that decision might be", why the Secretary has to act against the internal guidelines?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, my presentation merely reflects the views in the community and it is not a so-called prejudgment. As to the final judgment, in response to Ms Cyd HO's supplementary question, I do not rule out at this stage the possibility that we may fine-tune the Bill when resuming the legislative exercise. In the coming months, we will receive views and summarize the feasibility of various options, to see if they can help to resolve the problem of plugging the loophole.

DR MARGARET NG (in Cantonese): *Deputy President, contrary to the internal guidelines read out by Ms Cyd HO just now, the Government has apparently not consulted the public on the issue. The 220 000 people taking to the streets felt so furious because, for such a major issue, not only was no prior public consultation conducted, the consultation carried out afterwards was also not, as*

required by the guidelines, made without any presumption. The consultation is to be conducted is based on a pre-concluded assumption.

Deputy President, the Secretary for Home Affairs responded first today. The mishandling of the consultation exercise prompted 220 000 people taking to the streets. It can be regarded as a serious dereliction of duty. I want to know, who should be held responsible, the Secretary for Constitutional and Mainland Affairs or the Secretary for Home Affairs? Who should step down? Or is it that no one should take the blame?

DEPUTY PRESIDENT (in Cantonese): Which Secretary do you put the question to?

DR MARGARET NG (in Cantonese): *What I do not understand is: We have two Secretaries here today, who should be held responsible, and who should be the one to take the blame? We have been urging Secretary Stephen LAM to step down, have we left out an important figure?(Laughter)*

DEPUTY PRESIDENT (in Cantonese): I will ask the Secretary for Home Affairs to answer your supplementary question.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, as I just mentioned in the main reply, in each policy area, the relevant subject bureau and department decide how to conduct public consultation on their respective policy proposals. The Home Affairs Bureau and its departments will provide support at the district level in conducting consultation. Regarding the public consultation to be launched on the Bill, the Home Affairs Bureau will also provide support at the district level (such as the District Councils and public forums in the district).

DEPUTY PRESIDENT (in Cantonese): Secretary for Constitutional and Mainland Affairs, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, within the SAR Government, we have division of work among more than 10 officials at the level of Secretary of Department or Director of Bureau. In making major decisions, the collective participation of the Executive Council is also required. I am responsible for taking forward the Bill, as at today, we still believe that the overall objective of the Bill is to plug the loophole of instigating the so-called "referendum" triggered by legislators' resignation at will. This objective is supported by the public.

The scrutiny of the Bill has temporarily ended at the moment. We believe that the views collected in the two-month consultation will help achieve the objective of plugging the loophole. For this reason, as the Director of the Bureau responsible for the Bill, my primary duty is to resolve this problem for Hong Kong by plugging this loophole. The legislative process of this Bill is yet to be completed, we will continue to work hard.

MR ALBERT CHAN (in Cantonese): *Deputy President, first of all, I would like to congratulate Dr Priscilla LEUNG for successfully fighting for postponing the Second Reading of the Bill. I think credit has to go to her.*

As regards the accountability and responsibility of the Secretary for Constitutional and Mainland Affairs, even though the objective he just mentioned was an declared policy which had the support of some members of the public, however, in promoting the legislative process, to put it bluntly, he was indeed making a mess of it, that was why in the 1 July march, people wanted to feed him a lot of stuff.

The so-called amendment made by the Government in the last couple of days involved pushing two major changes within three days, one is to revise the initial mode of replacement, instead of filling the vacated seat with the person who ranks highest in the precedence list, the vacated seat goes to the candidate on the same list as the departed incumbent. This is a substantial change. However, after 220 000 people took to the streets, the Government postponed the Second Reading. Two major changes within three days signified clearly that the Secretary responsible for taking forward the Bill has failed to take the pulse of society and it is a serious dereliction of duty.

When the Government attempted to legislate on Article 23 of the Basic Law, Mrs Regina IP — the Secretary for Security then — took the blame and resigned to shoulder the responsibility. Today, the Secretary responsible for taking forward the Bill failed to do his job and performed poorly. As he deprived people of the right to vote, 220 000 furious people took to the streets and fed him with a lot of stuff. Under this circumstance, can he be so shameless and insist on staying in his post without resigning to shoulder the responsibility as the former Director of Bureau did? Stephen LAM, should you take the blame and step down immediately?

DEPUTY PRESIDENT (in Cantonese): The last statement "step down immediately", is it your supplementary question?(*Laughter*)

MR ALBERT CHAN (in Cantonese): *Deputy President, it is my supplementary question. I am asking him if he will take the blame by resigning to shoulder his responsibility and stepping down immediately.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, let me address one by one the views and supplementary question put forward by Mr Albert CHAN.

First of all, the initial proposal was amended after listening to the views expressed both within and outside the legislature. Our original proposal was to adopt the list with the largest remaining votes, that is, in case of a vacated seat, the seat in the legislature will be filled by the candidate who obtained the largest remaining votes on the list. However, as views expressed both within and outside the legislature indicated that, under the proportional representation system in the Legislative Council election, this would affect the distribution of support among various political parties and groups from the public and voters. As such, we have made a change and used the original list as the replacement list. We believe that this can reflect the rate of voters' support in the election under the proportional representation system. This is an important step, and there is extensive view within the community that our proposal will be more easily accepted by the public.

Secondly, the decision of postponing the Second Reading of the Bill was in fact made in the light of views reflected to us by different members of the Bills Committee after they had consulted their voters and constituencies. For this reason, in regard to proposals on the Bill and the time frame and procedure of voting, being the Administration, we will certainly respond proactively to the views in the community. This is what the Government should do.

Thirdly, up till now, different opinion polls still suggest that the public wish to plug this loophole. In this legislature, more than half of the Members are also of the view that the legislation should be amended to plug the loophole. As such, this overall objective can still be taken forward. As the Secretary responsible for this Bill, my top priority is to keep on garnering support and to amend the legislation to plug the loophole.

MR ALBERT CHAN (in Cantonese): *Deputy President, he has not answered the part about shamelessness.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, we are aware that in dealing with controversial issues, we need to stand firm and take a firm approach, so as to resolve these problems for Hong Kong satisfactorily.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 23 minutes on this question. Last oral question.

Purchase Prices of Flats in Old Buildings Reflected in Sale and Purchase Documents

6. **MR FRED LI** (in Cantonese): *President, it has been reported that the means employed by real estate developers to acquire old buildings have all along been under criticism, and such means include completing transactions at a "split price" (for example, a transaction on a property with an actual price of over*

\$2.7 million is completed at a registered price of \$1.2 million, and a removal fee over \$1.5 million), so as to create an illusion that old buildings are acquired at low prices, and persuading owners to sell their property ownerships by making deceptive claims that 80% or 90% of the ownerships in the buildings have been acquired. In this connection, will the Government inform this Council:

- (a) regarding a report last month that a company engaging in old buildings acquisition made use of a loophole in the Land Registration Ordinance (LRO) and only registered in the Land Registry (LR) the Preliminary Agreement for Sale and Purchase (PASP) and the formal conveyance on sale, and did not register the supplementary agreement relating to the value of conveyance on the sale of that property, whether the Government will review the Ordinance and make amendments to the effect that the information registered under the Ordinance reflects the true value of conveyance on sale of properties;*
- (b) whether at present the Lands Tribunal, Urban Renewal Authority (URA) and Rating and Valuation Department (RVD) make projections and compile statistics on the basis of the property prices registered in the LR; if so, whether changes will be made to use the value of conveyance on sale of properties required to be listed in the agreements for sale under the Stamp Duty Ordinance (SDO) together with other considerations for such projections and statistics; and*
- (c) whether it knows if the Estate Agents Authority (EAA) has performed random checks since issuing a practice circular in August last year to require estate agents to state the true purchase price on PASP; whether EAA will make reference to the requirements under the SDO and amend the relevant regulation to stipulate that estate agents must list on PASP all considerations related to the conveyance on sale of properties, and whether it will require estate agents to provide accurate information to owners in accordance with the records in the LR when providing information on property ownerships of acquired buildings, and to show the relevant records?*

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, Mr Fred LI's question is based on a report of the price offered by a real estate developer in acquiring old buildings. It however appears that the crux of the matter is how the public can obtain accurate information on the resale prices of residential properties. This is an issue about property market information which also falls within the ambit of the Transport and Housing Bureau and the EAA.

My reply to the three-part question is as follows:

- (a) The purpose of the LRO is to provide for the registration of deeds, conveyances, judgments and other instruments affecting real or immovable property, and the keeping of land transaction records for public search purposes to facilitate the title to landed properties to be easily traced and ascertained. That is to say, the maintenance of land registers and land transaction records is for a repository of private property ownership information for the public. Having regard to the ambit of the LRO, we do not consider that there exists any loophole in the current Ordinance as referred to by Mr LI. Nor do we consider the Ordinance a suitable vehicle to regulate malpractices, such as price mis-information and market manipulation.
- (b) In acquiring properties, the URA will appoint independent professional surveyors to assess the market value of the properties to be acquired and make reasonable acquisition offers.

When assessing the market value of properties, the surveyors appointed will analyse the relevant information of the properties to be acquired, collate and analyse the transaction records of similar neighbouring properties registered at the LR, and select a considerable number of transaction cases for comparison. The surveyors will examine the relevant information of the transacted properties, including the transaction dates and transaction prices, and so on, and conduct analyses based on the unit prices per square foot of saleable area. In determining the market value of the subject properties, the surveyors will also rely on their professional observations and judgments on the property market and market prices over a long period of time, as well as their analyses of

transaction cases making reference to other market information including relevant market reports, market analyses, data and news on the sale and purchase of first-hand and second-hand properties and transactions of similar properties in other districts, and so on. If it is found that the transaction prices of similar neighbouring properties selected for comparison are, for various reasons, higher or lower than the market prices, or the information is inaccurate, the surveyors will not take such transaction cases as reference.

In assessing the market price of a residential property, the surveyors will consider factors such as the surroundings, building age, floor level, area, views, orientation, physical conditions and building facilities of the subject property. In assessing a commercial property, they will make an analysis based on factors including the location, pedestrian flow, shop-front width, ceiling height, area and configuration of the property. They will carefully consider, analyse and compare transaction cases and the level of market values before determining the reasonable market value of the target property to be acquired based on their expertise and experience.

By adopting the above method of assessment, neither the assessment by the URA of the market value of the target property to be acquired, nor the assessment of the "Home Purchase Allowance" offered under its acquisition policy on the basis of a notional seven-year old replacement flat will be affected in case the resale prices of certain properties registered at the LR are lower than the actual prices of the properties.

One of the duties of the RVD is to assist the Collector of Stamp Revenue in vetting the stated consideration of transactions involving transfer of property to safeguard the Government's stamp revenue. Extensive property transaction information will be collected during the vetting and such data also serves as the main reference materials in capital valuation and compilation of statistics. The resale prices of properties registered at the LR are only one source of reference for the RVD in assisting the Collector of Stamp Revenue to determine the stamp duty payable. As such, the vetting by the RVD of stated consideration of transactions will not be affected in

case the resale prices of certain properties registered at the LR are lower than the actual prices of the properties.

As for the question raised in respect of the Lands Tribunal, we have consulted the Judiciary, which considers that the matter involves legal issues and it will be inappropriate for the Judiciary to give its views in this regard.

As mentioned above, the URA and the RVD do not rely on the data on property prices recorded in the LR as the only source of reference when assessing and determining the market prices of properties. They will make reference to other market information, reports, analyses, as well as property data and news available on the web to carry out analyses as appropriate.

- (c) The Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation requires that estate agents should provide clients with accurate information on the prices or rentals of residential properties, and should not mislead clients.

The EAA is concerned about the practice of estate agents in the acquisition of old buildings. In this regard, the EAA issued a Practice Circular in August 2010 to stipulate the requirements as set out in the law and the Code of Ethics which practitioners should comply with when engaging in the acquisition of old buildings, with a view to protecting the owners' interest.

As regards acquisition price, the Practice Circular requires estate agents engaging in the acquisition of old buildings to set out the actual acquisition price in the PASP. Also, it requires that estate agents should not exaggerate other payments (for example, removal allowance) in order to create a false impression of a lower acquisition price.

The EAA has not received any complaints on estate agents not stating the actual acquisition prices in PASPs since issuing the aforementioned Practice Circular last year. During inspections on estate agency shops, the EAA has reminded practitioners to comply with the requirements as set out in the law and the Code of Ethics in

the acquisition of old buildings. Licensees who are found to have breached the Estate Agents Ordinance (EAO), the Code of Ethics or the Practice Circulars may be liable to disciplinary actions by the EAA in accordance with the EAO.

MR FRED LI (in Cantonese): *Deputy President, it has frequently been mentioned by the Government, and the Secretary has just pointed out that estate agents should provide clients with accurate information on the prices of residential properties and they should not mislead the public and clients. However, the problem is how estate agents can obtain from the Stamp Office accurate transaction prices of individual properties because such information may not be found in the records in the LR. How can accurate information be obtained from the Stamp Office?*

SECRETARY FOR DEVELOPMENT (in Cantonese): I think Mr LI also understands that every ordinance has its legislative intent. The legislative intent of the SDO is to safeguard tax revenue through charging stamp duty on a person based on the information he provided to the Stamp Office. For this reason, the information collected under the SDO is generally protected under the Personal Data (Privacy) Ordinance, and it can only be used for the enforcement of the SDO, that is, the function of the Collector of Stamp Revenue. Therefore, the Stamp Office is not authorized under the SDO to provide the information in its possession for public inspection, including for estate agents' inspection or reference.

MR KAM NAI-WAI (in Cantonese): *Deputy President, the problem just mentioned by Mr Fred LI is that some unscrupulous estate agents acquire old buildings at low prices but offer a relatively large amount of removal allowance. How can owners be informed of the actual purchase price? Other owners are also misled into thinking that the flats nearby have been acquired at low prices; and they are not informed of the actual amount of removal allowance.*

The Secretary has just replied that the Stamp Office cannot provide the relevant information for public inspection. In that case, how can the Government ensure that minority owners, especially owners of old buildings, can obtain accurate information and be informed of the actual purchase prices of the

flats nearby? How can the Government safeguard the interests of the minority owners of old buildings?

SECRETARY FOR DEVELOPMENT (in Cantonese): I believe that both Mr KAM and Mr LI are very much concerned about how owners can obtain explicit information on property transactions. This actually involves how the transaction amount is handled during the property transaction process.

As we all know, the property transaction process involves various parties. First, the buyers and sellers; second, estate agents and third, lawyers. Members also know that we have followed up the issue of the acquisition of old buildings earlier, especially after the enactment of the Land (Compulsory Sale For Redevelopment) Ordinance. We have strived for the interests of buyers so that they can fully get hold of the relevant information.

I would also like to take this opportunity to report our work to Members. The two pilot schemes that we introduced earlier could respond to Mr KAM's question concerning how owners of old buildings as buyers could grasp the relevant information more clearly. We have implemented two pilot schemes: the first one is the Pilot Scheme on Outreach Support Service for Elderly Owners. Social workers will provide outreach support service to elderly minority owners of old buildings and provide them with the relevant information. For example, while owners are considering the acquisition prices offered by real estate developers, social workers would provide them with reference materials such as the transaction records of other flats in their buildings. If necessary, they may also make reference to the transaction prices of other similar properties in the same district, so that minority owners can grasp more objective information for comparison purpose. The second scheme is the Pilot Mediation Scheme. If a case has reached the mediation stage, we will provide minority elderly owners with free mediation services to help them grasp more information in the mediation process.

Concerning estate agents, I have noticed that the word "unscrupulous" has just been used by Mr KAM. As regards "unscrupulous" estate agents, I would like to ask Secretary YAU to reply later whether there are "unscrupulous" estate agents in Hong Kong and how they should be monitored.

The third party refers to lawyers. We all know that lawyers play a very important role in the property transaction process. According to the guidelines issued by the Stamp Office of the Inland Revenue Department, an instrument chargeable with stamp duty must contain a statement certifying that the transaction effected by the instrument does not form part of a larger transaction or series of transactions. To put it simply, according to the SDO, the property transaction price should clearly include various service fees paid by the buyer to the seller, excluding lawyer's fees. I wonder if Secretary YAU has anything to add.

DEPUTY PRESIDENT (in Cantonese): Secretary for Transport and Housing, do you have anything to add?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, the Member is concerned about the conduct of some estate agents. We are aware of the public's concern about the acquisition of old buildings. Therefore, the EAA

DEPUTY PRESIDENT (in Cantonese): Secretary, please wear the amplifier.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I am sorry. As we are aware of the public's concern about the acquisition of old buildings, the EAA issued a Practice Circular in August last year to regulate estate agents who are engaged in the acquisition of old buildings. It is required that the purchase price as specified in the PASP should be the actual price. The estate agents should not exaggerate other amounts, including the removal allowance mentioned just now, to send out a wrong message of a seemingly low purchase price. This measure has been effective and we have not received any complaints about the estate agents' listing of the actual acquisition price in the PASPs since we issued the Practice Circular on the acquisition of old buildings last year.

MR PAUL CHAN (in Cantonese): *Deputy President, having listened to the replies of the two Secretaries, I think they may not quite understand the actual*

practice in the market. As the main question is about the acquisition of old buildings, I would like to say that, even if the Secretary has just said that there are two pilot schemes to assist elderly owners whose flats are being acquired the problem is that the transaction prices of nearby properties are not effective references. In fact, there are big differences between the purchase prices of nearby properties and the actual prices at which the flats would be acquired. Merely making reference to the latest transaction prices of nearby properties cannot reflect the actual acquisition prices.

Why do I say that the two Secretaries do not quite understand the actual operation of the market? As far as I know, estate agents do not simply use one agreement to handle the matter. Instead, they use two agreements, namely the Agreement for Sale and Purchase and the agreement for compensation for removal fees. Therefore, they have bypassed the requirement of the Practice Circular as mentioned by the Secretary a while ago. Everything set out in the Agreement for Sale and Purchase is true, just that it has not been disclosed that they have concurrently signed an agreement on removal fees.

Deputy President, in light of such circumstances, I would like to ask the authorities via you, if the EAA would be asked to consider the situation and improve the regulatory measures, such as specifying that if the buyers, sellers and estate agents have signed another agreement when they signed the PASP, they should set out the relevant information or the details of another agreement in the PASP. This would also safeguard the Government's stamp revenue.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, we actually required estate agents to specify the actual purchase prices. The word "actual" does not only refer to the prices on paper but also the true prices. This is a requirement in the Ordinance or the Practice Circular. So, they should not exaggerate other allowances to create an illusion of low prices. The EAA has also carried out inspection and enforcement in this connection.

MR PAUL CHAN (in Cantonese): *My supplementary question is whether the authorities would ask the EAA to consider afresh if improvement measures can be adopted in light of the situation I just mentioned*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please sit down. Secretary, do you have anything to add? The Member is asking you to consider the situation.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): We will consider the situation. Actually, when we inspect or visit estate agencies, we will remind them of the relevant requirements.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I notice that Mr Paul CHAN has, in his supplementary question, not only mentioned the EAA, but also raised a point on safeguarding the Government's stamp revenue. I would like to add a few words on this point because I do not want Members to misunderstand that we do not care too much about stamp revenue.

According to the SDO, the levying of stamp duty is based on the purchase price as well as "any other consideration". The provisions are very explicit and all lawyers engaged in the business know that "any other consideration" includes all incidental expenses, such as fees for the genuine agents, transfer of title fees, mortgage fees, photocopying costs and transportation expenses, and so on. In a word, it includes the fees paid directly or indirectly and in whatever capacity by the purchaser (that is, the buyer) to the former buyer for obtaining the property. The fee is also regarded as "any other consideration" on which stamp duty will be levied.

If the Collector of Stamp Revenue has any doubts about "any other consideration", he can make an assessment on his own. It is specified in the SDO that he can make an assessment on his own, and he can seek the assistance of the RVD in this regard. This point also responds to Mr Fred LI's main question as to whether the RVD currently makes assessments on the basis of the transaction prices registered in the LR.

MR PAUL CHAN (in Cantonese): *Deputy President, I know that this is not time for a debate but I just want to clarify one point. As I have just said, the problem*

is that two agreements are involved, thus the measures mentioned by the Secretary cannot address the problem.

MR JAMES TO (in Cantonese): *Deputy President, in respect of disclosure of information, if we want to know the most reliable transaction prices, the only means is to conduct a search at the LR in accordance with the LRO. As the Government has stated in part (a) of the main reply, the most important function of the LR is to serve as a repository of private property ownership information. In other words, the Government has played down the importance of the LR to be merely a repository of private property ownership information, and transaction prices are insignificant which should not be open for inspection by the public. It turns out that the system or the major source of information that the public rely on at present is not to be trusted. Is this not a loophole?*

Deputy President, if the Government says that the LRO is not intend for giving the public the best it does not serve to inform the public of the transaction prices and ownership is there any other public information available for public inspection? Does the RVD publish assessment report on a daily basis? Does it announce the transaction prices in various districts on a weekly basis? The Government has not done so. Is this not a loophole? If the Government does not amend the LRO to make the relevant information accessible by the public, will it take other measures?

DEPUTY PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Development, please reply.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I am not the one to determine the legislative intent of the LRO. Mr TO has also received legal training. It is specified in the LRO that it seeks "to provide for the registration of deeds, conveyances, judgments and other instruments affecting real or immovable property, the keeping of Land Registry records, and for other matters relating to land registration". The LRO does not provide information on the property resale prices in Hong Kong.

To be more practical, as I have learned from the LR — what are the facts that the LR has to verify before these instruments are registered? According to Members, the LR should provide accurate or explicit transaction prices, or at least it should verify such information. However, the information verified by the LR actually does not include transaction prices. The LR just verifies whether the instrument is related to land, whether the seller on the transaction instrument is the registered property owner on the land register, whether the instrument is stamped according to the SDO or it is exempted from payment of stamp duty, or whether a stamp has been affixed to the instrument indicating that a ruling is pending.

Furthermore, property prices are only registered for the purpose of collecting registration fees because property transaction prices will facilitate the determination of registration fees by the LR. According to the regulation, for properties costing \$750,000 or more, the registration fee is \$450; for properties costing less than \$750,000, the registration fee is \$230. In some extreme cases if an instrument is received with the resale price being zero, the registration process should also be completed. In that case, we will charge registration fee on the basis of the assumed transaction price as specified under another provision. Generally speaking, if the price is relatively low or nominal, we charge \$450 as registration fee. I hope I have explained the legislative intent.

Second, I share Mr TO's view about where How can ordinary people rather than surveyors or lawyers whom I just mentioned, learn more about property transactions in Hong Kong? I have just mentioned in my reply that there are different ways to get hold of the relevant information in the entire property transaction process.

Yet, if Mr TO would like to follow up further, he should know that another Policy Bureau has recently conducted a consultation exercise on the Trade Description Ordinance. Secretary YAU's Bureau is also conducting a study on first-hand residential property transactions, with a view to enhancing information transparency. If Mr TO would like to follow up on this issue, I believe he would find these areas more useful than pursuing on the LRO.

MR JAMES TO (in Cantonese): *Deputy President*

DEPUTY PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR JAMES TO (in Cantonese): *She has not answered my supplementary question, it is really rigid*

DEPUTY PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR JAMES TO (in Cantonese): *How can the Government provide channels for the public to access to information to learn about the most accurate and open transaction records*

DEPUTY PRESIDENT (in Cantonese): The Secretary has already answered your question and the answer is "no".

MR JAMES TO (in Cantonese): *She may say that it is unnecessary to do so.*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): I have nothing to add.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 25 minutes on this question. Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS**Transportation of Explosives Required for Construction Works of South Island Line**

7. **PROF PATRICK LAU** (in Chinese): *President, recently, there was a serious accident in which a dangerous goods vehicle (DGV) overturned on Tai Po Road, paralysing the traffic in the New Territories for seven hours, and some members of the public are concerned about the safety of DGVs. According to the information provided by the MTR Corporation Limited (MTRCL), during the construction of the South Island Line (East) (SIL(E)), explosives are collected daily by the Mines Division (Mines D) of the Civil Engineering and Development Department from Kau Shat Wan on Lantau Island, and transported from North Point Pier through busy roads across various districts to the Southern District for delivery to the sites in Wong Chuk Hang first via Deep Water Bay Road, Nam Fung Road, Wong Chuk Hang Road and Nam Long Shan Road, and so on, and from the sites in Wong Chuk Hang, the explosives are then transported via Nam Long Shan Road and in Wong Chuk Hang Road, and so on, to the temporary explosives magazine site at Chung Hom Shan (CHS Magazine Site) by 3 pm for storage, and from where the explosives are collected twice daily (from 4 am to 5 am and before 4 pm) by MTRCL for transporting via Repulse Bay Road and Wong Chuk Hang Road, and so on, to the MTR sites at Nam Fung Road and in Ap Lei Chau for tunnel blasting. In this connection, will the Government inform this Council:*

- (a) *given that at present, the Mines D's daily route for transportation of explosives passes through the MTR sites at Nam Fung Road and in Ap Lei Chau on the way to CHS Magazine Site, whether it will consider taking the opportunity to deliver explosives to the two sites for use in the blasting operations in the afternoon; if not, of the reasons for that; and whether it has considered arranging the explosives delivery vehicles of the Mines D to transport explosives directly from the North Point Pier or the sites in Wong Chuk Hang to the aforesaid two MTR sites, so as to avoid respectively transporting the explosives by the explosives delivery vehicles of the Mines D to CHS Magazine Site at 3 pm daily and then collecting from the Site by the explosives delivery vehicles of MTRCL for transportation to the MTR sites at 4 pm, thus avoiding duplication of routes and*

prolonged transportation time of explosives on the road; if not, of the reasons for that;

- (b) given that MTRCL has pointed out that an interval of 10 hours must be maintained between the blasting operations carried out during the daytime and in the evening, and explosives will be delivered to the construction sites only two to three hours before the blasting operations take place, whether it will advise MTRCL to carry out blasting operations at 7 am and 5 pm to 6 pm for compliance with the provision that blasting operations must be completed by 7 pm, and make it possible for the timing of the blasting operations carried out in the afternoon to dovetail with the arrangements proposed in part (a) that the Mines D can deliver explosives directly to the aforesaid MTR sites by 3 pm daily; if not, of the reasons for that;*
- (c) given that the traffic in the Stanley area is very busy after 3 pm, whether it will consider dovetailing the arrangements proposed in parts (a) and (b) to cancel the arrangement of explosives transporting from Chung Hom Shan before 4 pm, so that vehicles carrying explosives will not need to travel back and forth in the district during the peak hours of traffic; if not, of the reasons for that; and*
- (d) if the Mines D is unable to deliver explosives directly to the sites at Nam Fung Road and in Ap Lei Chau, whether it will consider co-ordinating with MTRCL so that when explosives are delivered to the sites in Wong Chuk Hang by the explosives delivery vehicles arranged by the Mines D, MTRCL may be allowed to collect the explosives directly there and deliver the explosives to the MTR sites, thus shortening the route for delivery of explosives; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the SIL(E) is a new rail corridor from South to North of Hong Kong Island. It starts from South Horizons on Ap Lei Chau to Admiralty via Lei Tung, Wong Chuk Hang and Ocean Park. The SIL(E) will serve the 350 000 people living and working in the Southern District. At present, travelling by road-based

transport between South Horizons and Admiralty takes about 25 to 45 minutes during rush hours. With the commissioning of the SIL(E), the travelling time from the Southern District to Admiralty will be about 10 minutes. This long-awaited railway project has commenced its construction in May 2011 for the completion in 2015.

Part of the SIL(E) will be constructed using the drill and blast method. In fact, the blasting works for railway tunnel construction and site formation is by detonating explosives installed in the drill holes in the rock mass. The air pressure created in the blast breaks the solid rock mass into parts, which can be excavated easier. There is no open flame created in a blast. Sufficient safety measure is also provided.

Based on the SIL(E) works schedule, the MTRCL will carry out one blast a day at the site of Wong Chuk Hang Depot every afternoon for the site formation work; and two blasts a day at the Nam Fung Tunnel and Ap Lei Chau Tunnel sites respectively to match with the tunnel construction programme. Otherwise, the anticipated completion of the project by 2015 will be delayed. The programme of the blasting works is constrained by the limit in the sizes of the cut faces in both tunnels and the preparatory works required for each blast. As a result, the MTRCL cannot reduce the number of blast in both tunnels to once a day by increasing the scale of each blast further.

Our replies to the specific questions are as follows:

(a), (b) and (c)

According to the Dangerous Goods Ordinance (the Ordinance), it is prohibited to transport explosives in or out of the Government Explosives Depot at Kau Shat Wan, Lantau, or within the Victoria Harbour by sea between sunset and sunrise. Upon arrival at the work sites, the explosives must be installed immediately, and cannot be laid idle at the work sites or on the delivery vehicles.

According to the stringent process for blasting, prior to each blast, there are a number of preparatory works required which includes drilling, installation of explosives, checking, testing, evacuation of staff from tunnel and work site, and establishing protection measures

around the blasting zone. After each blast, suitably qualified professionals will enter the work site for inspection, break the rock boulders into smaller pieces mechanically, clear the excavated material in the tunnel, carry out reinforcement work, review the design of the next blast and carry out the preparatory steps abovementioned for the next blast. These procedures will normally take 12 hours to complete, therefore the two blasts carried out at Nam Fung Tunnel and Ap Lei Chau Tunnel will have to be in 12 hour interval. As the time required for the preparatory work varies with a number of factors including the result of the previous blast and the actual ground conditions, it is difficult to accurately predict the time of each blast.

In view that it is difficult to accurately predict the time of each blast and the explosive is not allowed to be laid idle at the work sites according to the Ordinance, it is necessary to set up a temporary magazine at a remote location at Chung Hom Shan (Chung Hom Shan Magazine) for storage and delivery of the explosives, to enable having two blasts a day at the Nam Fung Tunnel and Ap Lei Chau Tunnel according to the Ordinance and to meet the programme of SIL(E). The contractor has a very tight schedule for these necessary steps. When the preparatory work is almost completed, the contractor, as required by the Ordinance, will inform the Chung Hom Shan Magazine and arrange the delivery of the explosives to the work site, such that two blasts can be carried out in a day.

The MTRCL will avoid the delivery of the explosives at morning and evening peak traffic hours. The MTRCL plans the first delivery to be carried out at around 4 am to 5 am in the mornings so as to meet with the morning blast at around 7 am. The second blast is expected to be at around 7 pm. To match with the time of the second blast, the explosives will depart the Chung Hom Shan Magazine at around 4 pm and arrive at the work sites at around 5 pm for the preparation of the blast at around 7 pm.

The MTRCL has taken the community's views regarding the delivery time, and will avoid delivery during peak traffic hours. It is expected that the explosive delivery from the Chung Hom Shan

Magazine to the Nam Fung Tunnel and Ap Lei Chau Tunnel sites will require only four vehicle trips every afternoon. It will not have any significant impact on the traffic along Repulse Bay Road and Chung Hom Kok Road.

As there will be only one blast a day at Wong Chuk Hang Depot site, the MTRCL has requested the contractor arranging the works to match with the schedule of the delivery vehicle from Mines Division of the Civil Engineering and Development Department (Mines Division), so that the explosives can be delivered to the work site directly, without routing to the Chung Hom Shan Magazine.

In fact, the use of explosives for construction in Hong Kong has a long and safe history. The professionals in the industry are also experienced in the application. Record shows that the explosive delivery vehicles have not been involved in any traffic accidents that endangered the explosives, showing that the storage and delivery of explosives have been very safe.

The delivery vehicles must have different compartments to deliver detonator and explosives separately with fire fighting equipment. Drivers of the delivery vehicles are required to complete the fire fighting and explosives handling training and deliver the explosive according to the safe driving procedure. The delivery vehicles and the drivers are also required to be approved by the Mines Division.

The speed limit of delivery vehicles is the same as other vehicles. They must comply with the statutory speed limit. To further enhance safety, the explosives and detonators will be delivered separately in different vehicles.

- (d) According to the Ordinance, it is stipulated on the explosive delivery permits that the explosives must be retrieved from a designated storage and transported to a designated location. The destination cannot be altered and the vehicles cannot wait in idle during delivery. The suggestion given in the question that the MTRCL may distribute the explosives to the Nam Fung Tunnel and Ap Lei Chau Tunnel sites when the delivery vehicles of the Mines Division

arriving the Wong Chuk Hang site shall also comply with the requirements of "no idle during delivery" and "no idle at work site". As explained in the paragraphs above, it is difficult to accurately predict the time for the second blast, no matter the explosive is delivered by the vehicles of Mines Division direct or is distributed by the MTRCL, the time of delivery is difficult to match with the blasting programme accordingly. Therefore, the explosives for the blasts in Nam Fung Tunnel and Ap Lei Chau Tunnel have to be stored in and delivered from the Chung Hom Shan Magazine.

Application Fees and Enrolment Deposits for Tertiary Education Programmes

8. **MRS SOPHIE LEUNG** (in Chinese): *President, at present, in respect of quite a number of the courses offered by post-secondary institutions in Hong Kong (including undergraduate programmes, full-time accredited self-financing sub-degree, degree and top-up degree programmes or other higher diploma programmes of the University Grants Committee (UGC)-funded institutions), students need to pay an application fee of several hundred dollars to apply, and upon admission, they have to pay enrolment deposit or first instalment of several thousand dollars of tuition fee within a short time. Although the Student Financial Assistance Agency provides students with various assistance schemes, students may not apply for the assistance until they are enrolled. They are also required to undergo complicated means test process, and it may take a long time before such assistance is granted to the students. Until then, students need to pay their own application fee, enrolment deposit and tuition fee. For some students, however, it is not easy for them to pay a one-off enrolment deposit of several thousand dollars, and some young persons are unable to further their studies because they cannot afford such payments. In this connection, will the Government inform this Council:*

- (a) *what guidelines have been put in place by the authorities at present on the charging of application fees and enrolment deposits in respect of post-secondary or tertiary programmes by various institutions, and whether any ceiling for such fees has been set; whether it knows the levels of application fees and enrolment deposits for various programmes and whether such fees can be refunded;*

- (b) *whether it knows the annual number of students who had not been admitted in the past three years because they were not able to pay the aforesaid enrolment deposit;*
- (c) *whether there are measures to help students who cannot afford the fees concerned due to financial difficulties to pay the application fees and enrolment deposits (for example, by providing them with small loans which can be granted quickly and repaid after students receive the assistance); and*
- (d) *given that many students usually apply for several local and overseas institutions concurrently to increase their chances of enrolment to their favourite programmes and because the institutions announce admission results on different dates, such students will pay enrolment deposits in advance once they receive the admission notices, so that they will not lose their eligibility, and they will wait for all application results before deciding which institutions to choose, whereas the institutions will normally not refund the enrolment deposits, meaning that students need to suffer the loss of several thousand dollars or even tens of thousand dollars and the institutions will in a way increase their revenues, what measures (including taking the lead to discuss with various institutions to agree on the dates for announcing new admissions each year, so that students may have simultaneous access to the admission results of the institutions, thus facilitating them to select their most favourite programmes) the Government has to address the aforesaid situation, so as to avoid students having to pay additional enrolment deposits, and save the institutions' need to make replacement arrangements because some students give up their places after they choose to study in other institutions?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) Post-secondary institutions in Hong Kong enjoy a high degree of autonomy in academic development and administration matters. Each institution will devise its admission arrangements in the light of

its own circumstances, including deciding whether to charge an application fee and enrolment deposit and setting the levels of the fees. The Government has not imposed a ceiling on such fees. According to the information provided by the institutions, currently the application fees charged by institutions generally range from about \$50 to \$200. The application fees for programmes of the eight institutions funded by the UGC and The Open University of Hong Kong applied through the Joint University Programmes Admissions System (JUPAS), and some individual non-JUPAS degree and top-up degree programmes are set at \$420 or below. Individual institutions may reduce or waive the application fee under specific circumstances (for example, applications submitted online or during walk-in application day and admission seminar). As regards enrolment deposits, they usually range from about \$5,000 to an amount equivalent to the first instalment of the tuition fee. Enrolment deposits paid will generally be refunded to students after admission or counted towards part of the tuition fee. Under normal circumstances, if an applicant withdraws his application or gives up a reserved place, the application fee or enrolment deposit will not be refunded.

(b) and (c)

According to institutions, there has not been a case of a student being refused admission as a result of his inability to pay an enrolment deposit. In general, if institutions come across a case whereby a student cannot afford to pay an application fee or enrolment deposit due to financial difficulties, most of them will exercise discretion depending on merits of individual cases by for example, allowing students to defer payment of enrolment deposits. To help students in financial hardship, the Student Financial Assistance Agency works closely with the institutions to render assistance to the students concerned. They will vet relevant applications for financial assistance schemes expeditiously to ensure that students will not be deprived of the opportunity to further studies owing to financial difficulties.

- (d) Apart from the applications received through the JUPAS, institutions will receive applications direct from students and admit such students to their programmes. In other words, a student may receive offers from more than one programme. Payment of enrolment deposit is therefore part of the registration arrangement. The main purpose is to minimize the wastage of places and not as a means to increase revenue. Furthermore, institutions will not require students to pay an enrolment deposit or tuition fee immediately upon admission. A due date for payment will usually be fixed to give students time to consider.

In 2010 or before, students admitted to sub-degree and degree programmes offered by institutions are mainly candidates sitting for the Hong Kong Certificate of Education Examination (HKCEE) (that is, Secondary Five school leavers) and Hong Kong Advanced Level Examination (HKALE) (that is, Secondary Seven school leavers). For the former, institutions will normally issue admission offers to students on or after the date of announcement of the HKCEE results, and the due dates for payment of enrolment deposits differ among institutions. For the latter, many institutions will issue admission offers to students on or after the date of announcement of the HKALE results. However, in order to take into account the results of the JUPAS, as far as possible. Institutions will try to set the due date for payment of enrolment deposits after the announcement date of the JUPAS results.

Starting from 2012, the HKCEE will no longer be held and school leavers will sit for the Hong Kong Diploma of Secondary Education Examination and the HKALE. Both categories of students may choose to join the JUPAS. As admission arrangements are matters falling within the scope of academic development and administrative affairs which institutions enjoy a high degree of autonomy, we will invite institutions to strengthen communication and discuss among themselves whether improvements can be made to such arrangements.

Filing of Official Electronic Mails and Documents

9. **DR SAMSON TAM** (in Chinese): *President, it has been reported that various government departments need to print and file official electronic mails or documents at present. In this connection, will the Government inform this Council:*

- (a) *whether it has compiled statistics on the quantity of official electronic mails and documents printed and filed by various government departments last year, and of the quantity of paper used for that purpose; and*
- (b) *given that the Government has started studies on electronic record management (ERM) systems since 2001 and carried out a pilot run of an electronic recordkeeping system (ERKS), why to date ERKS is still unable to be put to formal use; whether it will conduct a study on this subject again shortly; if it will, of the details, including the timetable?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President,

- (a) Pending the full implementation of an ERKS in the Government, bureaux and departments (B/Ds) are required to convert email records into printed form for management and storage in accordance with government records management policy. We do not have readily available information on the quantity of official email records and documents printed and kept in B/Ds, or the quantity of paper used for that purpose.
- (b) Since 2001, the Government Records Service (GRS) has been working in conjunction with the Office of the Government Chief Information Officer (OGCIO) and the Efficiency Unit to formulate policy, strategies and standards for the effective management of electronic records. The objective is to develop new records management practices and tools to assist B/Ds in managing both electronic and non-electronic records in an integrated, efficient and consistent manner.

GRS has initiated a pilot project on ERKS and engaged a contractor to provide system implementation and related services. Following system development, an ERKS pilot run commenced in some selected offices of OGCI and the Transport Department in September 2007 and ended in September 2008. The review of the pilot project has identified the need to undertake further work to address issues relating to ERM and ERKS, including the development of a records management standard on metadata. The Administration is following up on these issues.

Separately, the government electronic information management (EIM) strategy was formulated in 2010 with ERM becoming an integral part of EIM. In May 2011, OGCI promulgated the government EIM strategy and EIM Framework for B/Ds to develop their EIM strategies, including the adoption of an ERKS as a mandatory component. To this end, action is being taken to provide appropriate support to B/Ds to help them develop their organizational EIM strategies.

Development of Services in Public and Private Hospitals

10. **MR ALBERT HO** (in Chinese): *President, regarding the development of services in the public and private hospitals, will the Government inform this Council whether it knows:*

- (a) *the situation of the public and private hospitals in the past five years, including:*
 - (i) *the changes and trend of development in the number of beds in the public and private hospitals; the respective percentages of such numbers in the total number of hospital beds, and the respective utilization rates of such beds;*
 - (ii) *the respective numbers, percentages of increase in the numbers and corresponding specialties of new beds in the private hospitals, as well as the percentages of increase in the numbers of doctors and nurses, broken down by hospital;*

- (iii) *the numbers and bed days of local residents and non-local residents using private hospital services, as well as the percentages of increase in such figures; if it does not know the data, how the authorities carry out the service and manpower planning, and whether they will request the private hospitals to provide the relevant data; and*
 - (iv) *whether the number of new beds in the private hospitals can alleviate local residents' demand for healthcare services in the public sector; if so, of the details; if not, the reasons for that; and*
- (b) *the development of public and private hospitals in the next three years, including:*
- (i) *the respective numbers of new beds to be added to public and private hospitals, together with a breakdown by hospital and specialty;*
 - (ii) *the respective numbers of additional specialists, general practitioners and nurses required for public and private hospitals to tie in with the beds to be added; and*
 - (iii) *the impact of the beds to be added in the private hospitals on the demand for public hospital services and turnover rate of healthcare staff; if it does not know the impact, of the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the two parts of the question is as follows:

- (a) In planning for its in-patient service and number of beds, the Hospital Authority (HA) will take into account a host of factors, including the growth and change of population in different districts and the projected service demand for various specialties, and so on. Notwithstanding the reduction of the total number of beds in the HA in the past few years, the HA has provided more general in-patient beds and enhanced services in the Kowloon East and New

Territories West Hospital Clusters in view of service need of different districts, thereby increasing the number of patients served by the HA. In the past five years, the number of discharge and deaths of general in-patient of the HA has increased by about 13.7%.

The hospital beds reduced by the HA in recent years are mainly psychiatric beds. The reduction of beds followed the implementation of a number of initiatives by the HA in recent years to strengthen the support services for mental patients in the community, which has resulted in a decrease in the demand for psychiatric in-patient service. At the same time, the HA has enhanced its ambulatory care and community service, and strengthened the follow-up and support to discharged patients. All of the abovementioned measures have helped alleviating the demand for in-patient service. The number of beds in the HA public hospitals and the bed occupancy rates are set out in the table below.

	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
Number of beds in public hospitals (as at 31 March)	27 633	27 555	27 117	26 824	27 041
In-patient bed occupancy rate	82%	82%	82%	82%	84%

For private hospitals, a total of some 700 additional hospital beds were opened between 2006 and 2009 in various specialties, such as medicine, surgery, obstetrics and gynaecology, paediatrics, orthopaedics and traumatology as well as clinical oncology, and so on. With these additional beds, the overall service capacity of our healthcare system has been further increased to meet the growing demand for healthcare services. The changes in the number of beds of each hospital are set out in the table below. Compilation of the statistics on the number of beds for 2010 is still underway.

<i>Private hospital</i>	<i>Changes in the number of beds between 2006 and 2009 (as at year-end)</i>
Canossa Hospital	-2
Evangel Hospital	18
Hong Kong Adventist Hospital	17

<i>Private hospital</i>	<i>Changes in the number of beds between 2006 and 2009 (as at year-end)</i>
Hong Kong Baptist Hospital	260
Hong Kong Central Hospital	-5
Hong Kong Sanatorium and Hospital	16
Matilda International Hospital	0
Precious Blood Hospital (Caritas)	-7
St. Paul's Hospital	-12
St. Teresa Hospital	208
Shatin International Medical Centre Union Hospital	138
Tsuen Wan Adventist Hospital	23
The Hong Kong Anti-Cancer Society Jockey Club Cancer Rehabilitation Centre	42
Total	696

Between 2006 and 2010, there was an increase of some 120 additional full-time resident doctors and 1 200 additional nurses in private hospitals. The total number of beds in private hospitals and the bed occupancy rates during the aforesaid period are set out in the table below.

	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Number of beds in private hospitals	3 100	3 400	3 700	3 800
In-patient bed occupancy rate	66%	67%	65%	64%

At present, private hospitals are required to furnish the Department of Health (DH) with data on the utilization of obstetric service by non-local residents in private hospitals on a regular basis. The DH will consider whether it is necessary to collect information on the utilization of other specialist services.

- (b) As regards public hospitals, as mentioned above, the HA takes into consideration a number of factors when planning the provision of public healthcare services, such as the projected demand for healthcare services having regard to population growth and

demographic changes, the growth rate of services of individual specialties, and the changes in healthcare services utilization pattern, and so on. To cope with the projected increase in demand for hospital service in certain districts, the HA will open an additional 21 general beds in the New Territories West cluster in 2011-2012. Furthermore, a number of ongoing hospital development projects will also provide additional beds in the coming years. These include the North Lantau Hospital (Phase 1) to be completed in 2012, the expansion of Tseung Kwan O Hospital to be completed in 2013 and the Tin Shui Wai Hospital projected to be completed by 2016. It is estimated that the above projects can provide a total of about 600 beds. The HA has been closely monitoring the wastage of staff and made regular assessment on the manpower requirements for healthcare personnel in light of the service expansion. In the past few years, the HA has been allocating additional resources to address manpower issues. In 2011-2012, the HA will continue to recruit additional healthcare staff to meet the service demand, which include about 330 doctors and 1 720 nurses. At the same time, the HA will implement a series of measures, including the creation of additional promotion posts and strengthening of professional training, with a view to improving staff retention, boosting staff morale and strengthening manpower.

As regards private hospitals, based on information available to the DH, private hospitals with service expansion plan initially aim to provide a total of some 250 additional hospital beds in 2013-2014. The actual number of beds and the types of services involved as well as the manpower required are still under planning by the relevant hospitals. Private hospitals are required to submit an application to the DH before their new beds can be commissioned. The DH will ensure that the private hospitals concerned can provide suitable manpower and equipment for provision of services.

Over the past years, the Administration has proceeded with the planning to increase the number of training places for doctors and nurses to cope with the future development of healthcare services. It is anticipated that there will be an increase in the number of medical graduates and nurse graduates in the next few years. For

doctors, the student intake of the two faculties of medicine has increased from 250 to 320 annually in the 2009-2010 to 2011-2012 triennium. As for nurses, the number of nurse graduates is expected to reach about 1 800 this year, including graduates from local universities (including University Grants Committee (UGC)-funded programmes and self-financed programmes), the HA nursing schools and local private hospitals. In the next few years, it is anticipated that there will be approximately 2 000 nurses each year available for recruitment. We will continue to encourage tertiary institutions to increase student places for the relevant healthcare professions. The HA will also strengthen its manpower training accordingly.

Statistics on Asbestos Materials and Asbestos-containing Materials

11. **DR LEUNG KA-LAU** (in Chinese): *President, will the Government inform this Council of:*

- (a) *the quantities of various kinds of asbestos materials and asbestos-containing materials re-exported from Hong Kong in 2008 and 2009;*
- (b) *the usage of various kinds of asbestos materials and asbestos-containing materials imported into Hong Kong in the past five years from 2006 to 2010; and*
- (c) *the quantities of asbestos products or asbestos-containing waste disposed of in Hong Kong in each of the past five years from 2006 to 2010?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, according to the interpretation of the Air Pollution Control Ordinance (the Ordinance), "asbestos" includes the minerals, and substances containing amosite, crocidolite, chrysotile, fibrous actinolite, fibrous anthophyllite and fibrous tremolite. The import and sale of amosite and crocidolite have been banned in Hong Kong since the commencement of the Ordinance in 1996. In addition, to comply with

requirements under relevant international conventions, the Environmental Protection Department has been enforcing the Hazardous Chemicals Control Ordinance since 2008 through a permit system to step up controls on the import, export, manufacture and use of the raw materials of asbestos (except chrysotile⁽¹⁾). The use of asbestos and asbestos-containing materials in the construction and other industries has been largely replaced by asbestos-free products. The quantity of import has substantially decreased as compared with the time before the Ordinance became effective. At present, only low risk materials containing chrysotile are imported into and exported from Hong Kong.

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

- (a) As no asbestos is produced locally, the quantities of export are the same as the quantities of re-export from Hong Kong. According to the Census and Statistics Department's records, the quantities of re-export for various kinds of asbestos and asbestos-containing materials over the past five years are shown in the table below:

	<i>Materials containing chrysotile</i>	<i>Year</i>				
		<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Re-export (tonnes)	Asbestos cement	3.8	0	0	5.3	0
	Fabricated asbestos fibres	9.7	7.3	5.7	58.0	0.3
	Friction materials and articles	0.6	0.5	0.3	0.2	0.003

- (b) Over the past five years, asbestos and asbestos-containing materials imported into Hong Kong were mainly used for heat insulation, noise insulation, fire resistance and friction braking purposes. As the use of these materials has been largely replaced by asbestos-free products, we have drawn up a proposal to ban the import, sale and use (including manufacture) of any asbestos and asbestos-containing materials to further reduce their impacts on the public. Consultation with the industry on the proposal has been completed and we are now reviewing the comments received in detail in order to finalize the proposal.

(1) The relevant international conventions have not yet banned the import, export, manufacture and use of chrysotile.

- (c) The table below shows the quantities of asbestos products or asbestos-containing waste disposed of in Hong Kong in the past five years:

<i>Year</i>	<i>Quantities of asbestos-containing waste (tonnes)</i>
2006	1 560
2007	1 570
2008	1 940
2009	2 620
2010	2 010

The asbestos-containing waste being disposed of mainly included asbestos cement water pipes, corrugated cement sheets, fibre materials for heat insulation, noise insulation or fire resistance purposes, friction materials and vinyl floor tiles. Asbestos waste is classified as chemical waste, its generation, collection and disposal have to comply with the regulatory requirements of the Waste Disposal Ordinance in order to protect the environment and public health.

Building Management of Private Residential Buildings

12. **MS STARRY LEE** (in Chinese): *President, according to the Lands Department's Guidelines for Deeds of Mutual Covenant (the Guidelines), property management companies (PMCs) may receive a manager's remuneration which cannot exceed 10% to 20% of the total expenses incurred in the management of the buildings, based on the number of units in different buildings. The owners from quite a number of housing estates have criticized that these maximum percentage levels have rendered the management fees out of tune with the market, and the threshold to replace management companies is too high and even if the performance of the first management company is not satisfactory, the replacement shall be passed by the votes of the owners holding not less than 50% of the shares in aggregate. In addition, they have pointed out that in the absence of owners' corporations (OCs) in some new housing estates, the owners do not have the means to control the expenses incurred by management companies for the maintenance, tendering and commencement of new building*

works, and so on, but the formation of an OC must be passed by a majority of the votes of the owners and supported by the votes of the owners holding not less than 30% of the shares in aggregate at a general meeting of the owners convened under section 3 of the Building Management Ordinance (Cap. 344) (the Ordinance). The owners of quite a number of large housing estates find it difficult to comply with such requirements. In this connection, will the Government inform this Council:

- (a) whether it knows, the current percentage of the management fees of large housing estates in general in the total expenses incurred in the management of the estates; when and based on what criteria the maximum percentages as stipulated in the Guidelines were determined; whether it has planned to review such maximum levels; if it has, of the details; if not, the reasons for that;*
- (b) whether it will review the existing threshold for the replacement of management companies of obtaining the agreement of the owners holding not less than 50% of the shares in aggregate; if it will, of the details; if not, the reasons for that; and*
- (c) whether it knows the names of the housing estates which have not yet formed an OC at present and the reasons for that, with a breakdown by District Council district; given that according to section 3A or section 4 of the Ordinance, the owners holding not less than 20% or 10% of the shares in aggregate may, pursuant to the relevant provisions, resolve to apply to the Secretary for Home Affairs or the Lands Tribunal for convening a meeting of the owners for the purpose of selecting an OC, of the respective numbers of such applications in the past three years, and among them, the number of those for which OCs were finally appointed, as well as the reasons why OCs could not be formed in the other cases?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the Ordinance provides a legal framework for the formation of OCs to facilitate effective building management.

As regards the termination of the appointment of Deed of Mutual Covenant (DMC) managers, we understand that the service or fee level of some PMCs may not be able to meet the satisfaction of owners and OCs who hence would like to have their managers replaced in the hope of obtaining better services. To address the problem that no termination mechanism in respect of the appointment of managers was provided for in some older DMCs, the Legislative Council passed the resolution to add a new provision to the Ordinance when it was amended in 2007, stipulating that under the above circumstances, OCs might, at a general meeting convened, and by a resolution passed by a majority of the votes of the owners, and supported by the owners of not less than 50% of the shares in aggregate, terminate by notice the DMC manager's appointment. According to the Guidelines issued by the Legal Advisory and Conveyancing Office (LACO) of the Lands Department (revised version of June 2011), prior to the formation of the OC, the Owners' Committee may terminate the managers' appointment without compensation by a resolution passed by a majority of votes of owners in an owners' meeting and supported by owners of not less than 50% of the undivided shares in aggregate (excluding the undivided shares allocated to common areas) and by giving the manager three months' notice in writing.

Regarding the remuneration of the PMCs, if the PMC is the DMC manager of a building, according to the Guidelines, the percentage of the manager's remuneration is calculated in accordance with the number of residential units and parking spaces. If the number of residential units and parking spaces is 20 or below, the percentage of the manager's remuneration must not exceed 20% of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development (excluding the manager's remuneration itself and any capital expenditure or expenditure drawn out of the Special Fund); if the number of residential units and parking spaces is 21 to 100, the percentage of the manager's remuneration must not exceed 15%; if the units and parking spaces is 101 or above, the percentage of the manager's remuneration must not exceed 10%.

As for the formation of OCs, at present, owners can convene an owners' meeting to establish an OC in accordance with sections 3, 3A or 4 of the Ordinance. In most circumstances, owners appoint an MC and form an OC under section 3 of the Ordinance. A resolution to appoint an MC shall be passed by a majority of the votes of the owners; and supported by the owners of not less than 30% of the shares in aggregate. If owners are unable to form an OC under

section 3 of the Ordinance, they may also form an OC in accordance with sections 3A or 4 of the Ordinance, which requires a lower threshold of shares. Section 3A of the Ordinance stipulates that the owners of not less than 20% of the shares in aggregate may apply to the Secretary for Home Affairs for appointing a convener. According to section 4 of the Ordinance, the owners of not less than 10% of the shares in aggregate may also apply to the Lands Tribunal for appointing a convener. The convener may convene an owners' meeting according to the relevant orders for the purpose of appointing an MC and forming an OC by passing a resolution by a majority of the votes of the owners.

In fact, subsequent to the public consultation and detailed deliberation at the Bills Committee of the Legislative Council in 2000, the Administration amended the ordinance to reduce the requirement of the support of the owners of 50% of shares in aggregate under section 3 of the Ordinance to 30%, as well as reducing the requirement of the support of the owners from 30% and 20% to 20% and 10% of the shares in aggregate respectively under sections 3A and 4 of the Ordinance, so as to facilitate the formation of OCs.

We understand the public concerns on the Ordinance. We have already established a Review Committee on the Ordinance (the Review Committee) which is currently conducting the review work in detail. The Review Committee and its co-opted members include the Legislative Council Members, professionals from the relevant industries and experienced MC members of the OCs. The Review Committee will study the problems commonly found in respect of building management, including the termination and remuneration of the DMC managers. The Review Committee will also examine if these problems can be resolved through further amending the Ordinance. Besides, the Review Committee will make recommendations to the Government on measures to enhance the operation of OCs and protect the interests of individual owners.

For the three parts of the question, our reply is as follows:

(a) and (b)

The Lands Department indicated that the existing LACO issued the earliest DMC Guidelines on 15 October 1987 via the LACO Circular Memorandum No. 91. The version of 1987 has already laid down the maximum limits of the percentage of the manager's

remuneration, which was drawn up in view of the then social circumstances and needs.

Regarding the current percentage of the management fees of large housing estates in general in the total expenses incurred in the management of the estates, the Government does not have information in this regard.

As mentioned above, the Review Committee is conducting the review on the Ordinance and has already convened a number of meetings. The items under review include the remuneration of and the threshold of terminating the DMC managers. The Review Committee commenced operation in January this year and aims to submit an interim report to the Home Affairs Bureau after a year to put forth suggested directions to amend the Ordinance.

If the Review Committee's suggestions concern the amendment of the Guidelines, the Lands Department will consider and follow up on these relevant suggestions.

- (c) At present, the detailed number of buildings which have not yet formed an OC in the eight urban districts with a relatively higher concentration of old buildings and New Territories districts with more small houses is as follows:

<i>Districts</i>	<i>Number of buildings which have not yet formed an OC</i>
Central and Western	1 938
Kowloon City	1 242
Sham Shui Po	1 126
Wan Chai	1 247
Yau Tsim Mong	1 512
Sai Kung	936
Tai Po	2 391
Yuen Long	7 508
Other Districts	4 064

There are various reasons for buildings not forming OCs. The common reasons can be categorized into four. First, quite a number of buildings have already formed other forms of owner/resident organizations, which have maintained close communication with the PMCs and can effectively manage their buildings. Second, some buildings have already engaged PMCs and the PMCs concerned can provide good building management and maintenance services, with which the residents are satisfied. Third, there are many old single tenement buildings in old districts, the flat owners of which are mainly elderly or grass-root residents, who have limited financial resources and ability in organizing themselves for action. In addition, the ownership is unclear in many of these buildings, with some other owners leasing their flats to tenants and collecting the rent through agents. As it is difficult to maintain regular contact with these owners, forming OCs in these buildings are often very difficult. Fourth, since a small number of developers (who usually hold the PMCs) hold a large percentage of undivided shares, other owners find it very difficult to obtain sufficient votes to form an OC if the developers do not co-operate.

As for individual house developments, owners of these individual house developments are the sole owners of their respective lots and they do not co-own the land or properties in the development with other owners. Unlike owners of multi-storey buildings, they do not own undivided shares. Thus, the Ordinance does not cover these individual house developments which do not have undivided shares.

In fact, apart from forming OCs, private property owners can also choose to form other forms of resident organizations, such as Owners' Committees, or engage a PMC to assist the owners in handling the daily building management and maintenance work.

In the past three years from 2008 to 2010, the number of applications made under section 3A of the Ordinance is five. Among these cases, MCs were finally appointed and OCs were formed in four cases, while one case failed to appoint an MC in order to form an OC because the resolution was not passed by the majority of the vote of the owners. According to the records of the Lands Tribunal, there

was one application filed to the Lands Tribunal pursuant to section 4 of the Ordinance in each of the year of 2008 and 2009. However, the Lands Tribunal does not have the information on whether an MC is appointed or not.

Social Work Officers Acting as Agents of Applicants for CSSA

13. **MR TAM YIU-CHUNG** (in Chinese): *President, recently, a number of Social Work Officers (SWOs) working in the Social Welfare Department (SWD) have reflected to me that the SWD requires them to use their personal identity card (ID card) numbers to act as the appointees of some Comprehensive Social Security Assistance (CSSA) applicants who are under 18 years old without legal guardians and some adults who have been medically certified to be unfit to apply for CSSA on their own, for the purpose of applying for CSSA on their behalf. These SWOs relayed to the relevant Policy Bureau early last year that such an arrangement seriously infringed the privacy of the staff concerned. At that time, the Policy Bureau undertook to modify the computer system so that the staff concerned could use the numbers of their government staff cards or departmental staff cards instead of their personal ID card numbers to apply for CSSA on behalf of the persons concerned as appointees. However, when these SWOs followed up this matter with the bureau early this year, the bureau pointed out that as the numbers of government staff cards or departmental staff cards were not unique and would easily cause confusion, it therefore refused to revise the relevant arrangement. In this connection, will the Government inform this Council:*

- (a) of the existing number of CSSA cases in which appointees have been appointed by the SWD; the number of SWOs in the SWD involved in these cases; whether the SWD and the Office of the Privacy Commissioner for Personal Data (the Office) had received complaints from SWOs in the past three years about the aforesaid arrangement; if they had, of the relevant figures;*
- (b) whether the SWD has sought the opinion of the Office on whether the aforesaid arrangement contravenes the provisions of the Personal Data (Privacy) Ordinance (Cap. 486); if it has, of the results; if it has not, the reasons for that; and*

- (c) *whether the SWD has any plan to revise the existing arrangement of requiring its SWOs to use their personal ID card numbers to apply for CSSA on behalf of the aforesaid persons as appointees; if it has, of the details of the plan and the implementation timetable; if it has not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, if an applicant for CSSA is aged below 18 and without parents or a legal guardian, or is aged 18 or above but has been certified by a medical officer as physically unfit to make an application in person, the Director of Social Welfare (DSW) will appoint an appointee to handle on behalf of the applicant matters related to his CSSA application.

In general, a relative or friend of an applicant, or any other person who holds an adult Hong Kong Identity Card (HKIC) and is willing to bear the responsibilities of an appointee (which mainly include making the CSSA application and declaration therewith on behalf of the applicant, and collecting, managing and using the assistance payments), may act as an appointee. If the applicant has no relative, friend or any other person who is suitable to act as his appointee, DSW will appoint a social worker of the SWD to do so.

- (a) As at the end of June 2011, there were 27 236 CSSA cases in which the appointee was appointed by DSW. SWD social workers were appointees for 2 808 of them, and 647 staff members were involved.

The Office informed the SWD in writing on 19 May this year that they had recently received an enquiry about the need for SWD social workers who acted as appointees to provide personal data. The Office requested the SWD to supply relevant information for ascertaining whether its practice of collecting the personal data of appointees was in compliance with provisions under the Personal Data (Privacy) Ordinance (Cap. 486). Besides, the relevant staff association of the SWD has also expressed concern about the same matter.

- (b) Any person (including social workers of the SWD) applying for CSSA on behalf of a CSSA applicant in his capacity as an appointee must provide his HKIC number so as to help the SWD ascertain his

eligibility for being an appointee. The SWD will handle the data according to its internal guideline on the processing of personal data. The guideline reminds all staff that they have to use, process and store personal data, including ensuring against the unauthorized use of or access to the data, according to provisions under the Personal Data (Privacy) Ordinance (Cap. 486).

To ensure that public funds are properly spent and to prevent pecuniary loss to CSSA recipients, the SWD has to accurately identify appointees. At present, HKIC is the only secure and unique identification document for staff of the social security field units (SSFUs) of the SWD to identify appointees (including social workers of the SWD who act as appointees) in a clear and definite manner for effecting CSSA payments. In particular, when an appointee approaches an SSFU for immediate advance of cash for a recipient, staff of the SSFU must rely on a valid identity document to verify the identity of the appointee before offering immediate assistance. If an appointee is found stealing or deceiving CSSA payments, the HKIC number will help the SWD and the police identify the HKIC holder for prosecution and/or claims for compensation.

The SWD has consulted the Department of Justice on the practice of having social workers of the SWD acting as appointees. The legal advice was that requiring an appointed SWD social worker to provide his HKIC number for record purpose when he applies for CSSA on behalf of an applicant for the purpose of identifying this appointee accurately was in compliance with the requirements of the "Code of Practice on the Identity Card Number and other Personal Identifiers" issued by the Office, and also in the interest of the HKIC holder. Besides, the legal advice pointed out that the SWD might, based on section 5 of the Registration of Persons Ordinance (Cap. 177), require any person registered thereunder to, in all dealings with the Government, furnish his HKIC number and as far as practicable the HKIC number of any other person whose particulars he was required by law to furnish.

- (c) As regards cases involving social workers of the SWD acting as appointees, the SWD has considered the feasibility of using other proofs of identity such as the Government Identity Card number/Departmental Identity Card number as substitute for the HKIC number. However, the numbers of such proofs may be changed and replaced. Moreover, other information shown thereon may be outdated. Therefore, they are not safe and unique means for identification purpose, and the use of them to replace the HKIC number might result in a higher risk of mistakes in the release of CSSA payments when appointees approach SSFUs for immediate advance of cash for recipients. For the above reasons, the SWD is still adopting the existing arrangement at the moment, but will continue to explore the feasibility of using other identity documents to replace the HKIC.

Preventive Measures to Reduce Rate of Suicide by Charcoal Burning

14. **MR CHAN KIN-POR** (in Chinese): *President, in 2006 to 2007, the Government commissioned the Hong Kong Jockey Club Centre for Suicide Research and Prevention of the University of Hong Kong (the Research Centre) to conduct a pilot scheme of changing the method of selling charcoal packs (the pilot scheme) in Tuen Mun, under which the shelves for keeping charcoal in supermarkets were locked and anyone who wanted to buy charcoal was required to contact the staff first. According to the report on the pilot scheme, the rate of charcoal burning suicide in Tuen Mun reduced substantially by more than 50% from 4.3 per 100 000 before the pilot scheme to two per 100 000 after the pilot scheme; for the same period, the rate of charcoal burning suicide in Yuen Long, a district selected as a control in the experiment, increased by over 40% from three per 100 000 to 4.3 per 100 000. Regarding the total number of all fatal suicide cases for the same period, the number of such cases in Tuen Mun reduced by more than 30% while that for Yuen Long remained broadly the same. It is noted that the International Association for Suicide Prevention and experts in suicide prevention from the United Kingdom have affirmed their support in the findings of the pilot scheme. The Secretary for Food and Health also indicated in March this year that according to the study of the University of Hong Kong, an effective approach to prevent suicide in community settings was to reduce people's access to suicide means. However, in reply to a relevant question on 2 March this*

year, the Secretary for Labour and Welfare indicated that as the pilot scheme did not have substantial impact on reducing suicide attempts, the authorities have no plan to implement the pilot scheme in all 18 districts in Hong Kong. In this connection, will the Government inform this Council:

- (a) why the aforesaid two Directors of Bureaux had reached different conclusions regarding the pilot scheme;*
- (b) whether the authorities will use both the number of attempted suicide cases and that of fatal suicide cases as indicators for assessing the effectiveness of the aforesaid scheme and other suicide prevention schemes, instead of only considering the changes in the number of attempted suicide cases; although at present the authorities have no plan to implement the pilot scheme in all 18 districts in Hong Kong, whether they will consider implementing the scheme in at least some districts;*
- (c) whether the authorities will enhance publicity and public education on the pain, permanent injury to the body and severe residual defects that can be caused by charcoal burning suicide, as well as the long-term serious impacts on the family members of the victims of suicide; whether the Government will consider conducting a cost-benefit analysis on the suicide preventive measures in Hong Kong; and*
- (d) as the figures of the Research Centre have revealed that the number of cases of charcoal burning suicide increased from 143 in 2007 to 167 in 2008, and to 177 in 2009, and among them, the number of cases for the age group of 35 to 44 was the highest, whether the authorities will consider formulating measures in response to the higher rate of charcoal burning suicide by people belonging to that age group, with a view to taking proper intervention and follow-up actions before they choose to end their lives by charcoal burning, and whether they will consider conducting or subsidizing relevant organizations to conduct a territory-wide longitudinal study on reducing people's access to means of suicide by charcoal burning?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Administration's consolidated reply to the four parts of the question raised by Mr CHAN Kin-por is as follows:

In 2006, the Administration commissioned the Research Centre to conduct a study on a community-based programme for preventing suicide in Tuen Mun. As part of the study, the pilot scheme was implemented with the collaboration of the Social Welfare Department (SWD), Hospital Authority (HA), Tuen Mun Hospital, Tuen Mun Police District as well as five supermarkets and convenience stores in the district. During the pilot scheme, the shelves for keeping charcoal in the said supermarkets and convenience stores were locked so that anyone who wanted to buy charcoal had to contact the staff first. The purpose was to find out the correlation between restricting public access to individual means of suicide and the number of suicide choosing such means as well as the overall number of suicide. While the efficacy of the scheme in reducing the number of charcoal burning suicide cases is recognized, further study is required as we are also concerned about the possible increase of suicide by other means as a result of the scheme. There is no discrepancy between the conclusions of the two Directors of Bureaux.

Apart from preventive measures targeting at individual means of suicide, the Administration also attaches much importance to tackling the problem from the root. In order to reduce the number of suicide and suicide attempts, emotional support counselling and public education, and so on, are provided to assist the emotionally disturbed and to advocate positive thinking and attitudes. In this connection, the Government has been taking a multi-pronged approach in preventing suicide.

On welfare services, to meet the needs of people with suicidal tendency (including people aged 35 to 44), the SWD provides crisis intervention and intensive counselling services for them through subventing the Suicide Crisis Intervention Centre (SCIC) of the Samaritan Befrienders Hong Kong (SBHK). As persons with suicidal tendency may leave traces on blogs or online groups, and so on, the SWD has subvented the SCIC's "Blog Searching Scheme" since November 2009 to strengthen online patrols by searching blogs for keywords like "suicide" and offering emotional support services for persons with high suicidal risk. The SCIC also operates the "Suicide Survivors Service" to provide services to relatives and friends of those who had committed suicide.

Moreover, the SWD has increased the provision for the SBHK to introduce a three-year "Web Engagement Project" starting from August 2010. Riding on the prevalence of Internet surfing for information, the project reaches out and provides services to those in need through interactive platforms such as emails and chatrooms, and produces short films and case stories promoting positive values of life. The painful experience and after-effects caused by various means of suicide, including charcoal burning suicide, are also illustrated on the dedicated website of the project by phases.

On medical and health services, the HA's psychiatric units conduct comprehensive suicidal risk assessments for needy cases and arrange various follow-up services. In addition, a task force on in-patient suicide has been set up and put in place various measures to reinforce the current prevention against in-patient suicide.

As for publicity and public education, the SWD will continue to collaborate with the relevant government departments through different activities and media to promote positive messages of treasuring life and positive attitude towards adversities.

When exploring suicide preventive measures, the Administration will make reference to relevant information including figures of suicide deaths and suicide attempts as well as findings of relevant academic research. Academic research helps enhance our understanding of the issue and trend of suicide and provides useful reference to facilitate the formulation of suicide preventive measures. Therefore, the Administration has all along been supportive of studies on suicide undertaken by research institutes. In June 2011, the SWD commissioned the Research Centre with funding from the Lotteries Fund to implement a pilot project on community-based prevention of suicide (the pilot project) in the North District and its surrounding areas. The three-year pilot project, to be launched in July this year, targets mainly at youths aged 15 to 24 as well as persons with suicidal tendency in the local communities. Awareness of suicide prevention at the community level will be raised through public education and publicity, and the efficacy of various suicide prevention measures will be examined. With the application of a Geographic Information System for analysing and identifying areas and groups with higher suicide risks, community-based collaborative networks will be set up to mobilize community resources in the provision of targeted educational, supportive and counselling services for the vulnerable to

prevent suicide. The Administration will maintain close liaison with the research team to keep in view and follow up on the outcome of the pilot project.

Public-private Partnership in Healthcare

15. **MR CHEUNG MAN-KWONG** (in Chinese): *President, regarding the public-private partnership programmes in healthcare (PPP programmes), will the Government inform this Council:*

- (a) *of the PPP programmes which are being implemented at present as well as those which are planned to be implemented in the next two years covering the scope of hospital services; of the public expenditure incurred, the partners from the private sector and their number, the service targets and number of beneficiaries;*
- (b) *whether the authorities have, prior to the implementation of the PPP programmes, assessed the pros and cons of injecting resources into these programmes vis-à-vis the improvement of public healthcare services, in terms of the cost, government expenditure, fairness as well as the manpower requirement and mobility of healthcare staff involved in each programme; if they have, of the criteria for and results of the assessment for implementing the programmes; if not, the reasons for that; and*
- (c) *given that the authorities have launched the PPP programme of "Cataract Surgeries Programme" (CSP) in February 2008 to, on the one hand, provide a fixed amount of subsidy to patients who chose to receive surgeries in the private sector and, on the other hand, to increase the number of such surgeries conducted in public hospitals so as to shorten patients' waiting time, whether they know the difference between the number of healthcare staff required for a cataract surgery carried out in private medical service institutions and that for conducting such surgery in public hospitals; of the wastage rate of healthcare staff in the ophthalmic service of the Hospital Authority (HA) as well as the ranks of those staff departed since 2008; of the measures the HA has in place to retain its staff, and the expenditure so incurred; in view of the expanding ageing*

population in the future and the increasing number of patients who need to receive cataract surgery, whether the authorities have assessed the additional places for cataract surgeries need to be provided and the additional number of relevant healthcare staff need to be recruited by the HA in the next five years in order to meet the new service demand; if they have, of the results; if not, the reasons for that?

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

- (a) The Administration has launched two public-private partnership (PPP) pilot projects, through the HA, covering hospital services (excluding specialist out-patient and general out-patient services) as follows:

<i>Pilot Project</i>	<i>Partner</i>	<i>Target Client</i>	<i>Estimated number of beneficiaries in 2011-2012</i>
CSP	Registered private ophthalmologists in Hong Kong	Cataract patients	3 000
Haemodialysis PPP Programme	Private service providers selected through open tender	End-stage renal disease patients	100

In 2011-2012, we plan to launch another pilot project to strengthen radiological imaging services through PPP for specific groups of cancer patients who meet the relevant clinical criteria. This pilot project is still at the preparatory stage. We plan to select suitable private providers through open tender. We estimate that some 10 000 radiological imaging checks would be provided under the project.

We estimate that the expenditure required for implementation of these PPP projects in 2011-2012 is around \$50 million. We are not in a position to provide specific figures for 2012-2013 and beyond as adjustments may be made to the scale and expenditure of these projects in the light of public response and their effectiveness.

- (b) Promotion of PPP in healthcare is a key element of healthcare reform proposed in 2008. It aims at offering more choice of services for individuals, promoting healthy competition and co-operation, and making better use of resources in both the public and private sectors through collaboration between the two sectors to provide healthcare infrastructure or services. PPP also helps benchmark the efficiency and cost-effectiveness of healthcare services, and facilitates cross-fertilization of expertise and experience among healthcare professionals. We wish to stress that the Government's commitment to healthcare will not decrease because of promoting PPP.

In developing each PPP project, we will have regard to the aforesaid policy direction of healthcare reform and set clear project objectives, identify appropriate target groups, determine the feasible and suitable PPP model, monitor the quality of services provided to the public under the projects and assess carefully their cost-effectiveness in order to ensure that members of the public can benefit from the projects. Generally speaking, factors to be considered for implementation of individual projects include: whether there is a pressing need for the service; the feasibility of the PPP model; the capacity of the public and private sectors and the quality of the services provided; whether cost-effectiveness can be achieved and service outcome can be enhanced; and other potential pros and cons of the projects.

The Administration will review each and every PPP project and evaluate its efficacy, cost-effectiveness, service quality, public's participation rate and satisfactory level as well as other achievements. Adjustments will be made as appropriate in light of the evaluation results to ensure efficient use of resources.

- (c) The HA has implemented since February 2008 the CSP to subsidize patients to receive surgeries in the private sector. Under the CSP, patients who choose to receive surgeries in the private sector will receive a fixed subsidy of \$5,000, subject to a co-payment of no more than \$8,000 by the patient. The HA has at the same time increased the number of surgeries conducted in HA hospitals. The

Administration has reported to the Legislative Council Panel on Health Services the details and review of CSP in June 2010. In general, CSP is able to provide needy patients waiting for cataract surgeries at public hospitals with a choice for quality private service through the provision of a subsidy, and make better use of the capacity of public and private sectors for cataract surgeries, thereby enhancing the overall service throughput in a cost-effective way.

In 2011-2012, the HA will enhance its facilities (including establishment of a new cataract centre at the Tseung Kwan O Hospital) to perform 3 000 additional cataract surgeries in its public hospitals. It will at the same time provide subsidies to 3 000 patients for cataract surgeries in the private sector under CSP. With the above measures, it is projected that the HA can handle about 31 000 cataract surgeries in 2011-2012. As the HA has projected that there will be about 22 000 to 25 000 new cataract cases per year, the HA should be able to meet the service needs with the above capacity.

The HA does not have the relevant information about the difference in the number of healthcare staff required for each surgery performed in the public and private sectors. The turnover figures of the HA's ophthalmologists and nurses in ophthalmic department in 2008-2009, 2009-2010 and 2010-2011 are set out below:

		<i>Turnover figure of 2008-2009</i>	<i>Turnover figure of 2009-2010</i>	<i>Turnover figure of 2010-2011</i>
Grade	Principal Rank			
Doctor	Consultant/Senior Medical Officer/Associate Consultant	3	2	4
	Medical Officer/Resident	6	3	7
Total number of doctors		9	5	11
Nurse	Nursing Officer/Advanced Practice Nurse	1	2	1
	Registered Nurses	2	0	1
	Enrolled Nurse/Others	2	0	1
Total number of nurses		5	2	3

The turnover rates of ophthalmologists and nurses in ophthalmic department are respectively 5.8% and 2.8% on average. The HA has deployed additional resources over the past few years to address manpower issues. Apart from recruiting additional healthcare staff to cope with increase in demand, the HA has been striving to enhance the professional training of its healthcare staff, provide them with better working environment, promotion prospect and remuneration package so as to attract and retain talents.

Possible Delay of Shatin to Central Link Project

16. **MR CHAN HAK-KAN** (in Chinese): *President, according to the original plan of the MTR Corporation Limited (MTRCL), the Tai Wai to Hung Hom section and the Hung Hom to Admiralty section of the Shatin to Central Link (SCL) are scheduled for commissioning in 2018 and 2020 respectively. However, as affected by the litigation relating to the environmental impact assessment (EIA) reports for the Hong Kong-Zhuhai-Macao Bridge local projects (local bridge projects), the MTRCL has earlier on withdrawn three EIA reports on SCL. Previously, in reply to a question raised by a Member of this Council, the Secretary for Transport and Housing said that there were still considerable uncertainties as to whether the programme for the SCL project might be affected. In this connection, will the Government inform this Council:*

- (a) *as it has been reported that the East Rail Line (ERL), the Ma On Shan Line and the two major interchange stations, namely Tai Wai Station and Kowloon Tong Station, are at present already very crowded, whether the authorities know if the MTRCL has assessed the respective increases in the numbers of passengers using the two extensions and the two interchange stations from now on until the commissioning of SCL as originally planned; whether it has assessed the impact of each year of delay in the commissioning of SCL on the crowdedness of the two extensions and the two major interchange stations;*
- (b) *whether a task force will be formed by the relevant government departments, the MTRCL and other public transport operators to study how to co-ordinate and deploy different transport modes to*

meet the transport demand of members of the public before the commissioning of SCL in case it is delayed; if so, of the details; if not, the reasons for that; and

- (c) *as the MTRCL once indicated that the installation of platform screen doors for SCL and ERL would be implemented in parallel, whether the authorities know if the MTRCL will pursue the two projects separately by according priority to the planning and installation of platform screen doors for ERL in view of the possible delay of the commissioning of SCL; if the MTRCL will do so, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the SCL has a total length of 17 km. In the light of the design and construction method used in different regions along the SCL, the MTRCL has set out the EIA together with the adopted environmental mitigation measures for different sections of the SCL project in three EIA reports. However, in view of the Court's judgment of the EIA reports of the local bridge projects, the MTRCL, for the sake of prudence, decided on 21 April this year to withdraw the three EIA reports so as to review the contents of the report.

Our original plan is to complete the statutory consultation process and statutory EIA process in 2012, and then submitted the case to the Executive Council for consideration of authorization to take forward the project. We aim to commence construction works in 2012, and complete the Tai Wai to Hung Hom section in 2018 and the Hung Hom to Admiralty section in 2020. However, as we need to review the three EIA reports of the SCL project in accordance with the Court's judgment regarding the EIA reports of the local bridge projects, and if this work takes time and we cannot complete within this year, the original programme for the SCL project may be affected.

At this stage, it is difficult to estimate the time required for the review of the three EIA reports of the SCL. We and the MTRCL are carefully examining the new EIA requirements laid down by the Court's judgment regarding the local bridge projects and how to meet such requirements in the EIA process. We need to discuss with the Environmental Protection Department the views in this regard.

It is only after having a clear understanding of how to handle the requirements of the judgment that we can assess how to deal with the three affected EIA reports of the SCL, and the complexity of and time required for the work. We would then be in a better position to assess whether there will be any delay in the SCL programme.

The following is our reply to question by items:

- (a) Currently, the busiest sections of the ERL and Ma On Shan Line are the Tai Wai to Kowloon Tong section and the Che Kung Temple to Tai Wai section respectively. During the morning peak hours, the patronage figures in 2010 at these two lines are 56 400 and 14 400. We estimate that there will be a cumulative increase of about 7% in the patronage figures for these two sections during peak hours before the SCL Tai Wai to Hung Hom section comes into operation in 2018. We estimate that there will be a further increase of about 2% up to 2020 for the Tai Wai to Kowloon Tong section and virtually no change for the Che Kung Temple to Tai Wai section before the Hung Hom to Admiralty section comes into operation. Regarding the number of passengers using the Kowloon Tong Station and the Tai Wai Station, currently the peak hours usage are 48 600 and 33 600 respectively. These include passengers entering and leaving the stations, as well as those interchanging between railway lines inside the station. We estimate that there will be a cumulative increase of about 17% and about 6% in the station usage for these two stations respectively in the morning peak hours before the SCL Tai Wai to Hung Hom section comes into operation in 2018. The station usage of these two stations will remain more or less the same before the SCL Hung Hom to Admiralty section is commissioned in 2020.
- (b) The planned capacity of the ERL and the Ma On Shan Line is able to cope with the above estimated patronage increase before the full commissioning of the SCL in 2020. At this stage, it is still our goal to strive for commencement of construction works in 2012 and commissioning the SCL project in 2020. Whether the programme of the SCL project will be affected is not yet known as at this stage there are still many uncertainties. We will closely monitor the

patronage of the ERL and Ma On Shan Line. Depending on the actual situation, we will study the need to introduce mitigation measures in case that the SCL is opened to traffic later than 2020. In fact, in drawing up the service timetable for each railway line, the MTRCL has already taken into consideration the travelling patterns of passengers and patronage of different areas and stations. The Transport Department (TD) will examine the reports submitted by the MTRCL regularly on its service performance. The TD will also conduct on-site investigations and inspections to ensure that railway service meets passenger demand. If necessary, the TD will urge the MTRCL to adjust its service arrangements based on changes in passenger demand within the constraints of the operational system (such as the signalling system and number of available tracks).

- (c) To implement the installation of platform screen doors along the ERL in conjunction with the implementation of the SCL project is a reasonable solution to resolve the problem of platform screen doors. Under the current progress of the SCL project, our goal is still to start construction works in 2012. But whether this schedule will be affected is not yet known as at this stage there are many uncertainties. We will closely monitor the progress of the project, and if necessary, to review the schedule of the project and the related issues in due course.

Telephone Appointment Booking Service of General Out-patient Clinics

17. **MR JAMES TO** (in Chinese): *President, the original intention of implementing the Telephone Appointment Service (TAS) of general out-patient clinics (GOPCs) is to prevent patients from having to visit clinics in person and spend much time on waiting for consultation quotas, as well as to alleviate the crowded queuing conditions in clinics. In recent years, it has been reported that the consultation quotas allocated through telephone booking were often full, resulting in longer waiting time. It has also been reported that although the quotas reserved for civil servants in some GOPCs have not been fully allocated, the GOPCs do not release such unallocated quotas for the general public to book. In this connection, will the Government inform this Council whether it knows:*

- (a) *the number of consultation quotas allocated by the various GOPCs in Kowloon West Cluster (KWC) in each of the past three years; among them, the quotas reserved for civil servants and the average utilization rate; the number of appointments cancelled by civil servants on their own initiative; and how unallocated quotas for civil servants are handled by GOPCs;*
- (b) *given that various clinics have different number of unallocated consultation quotas each day and the public have no way of knowing whether they can be allocated such quotas, how the authorities dispose of the unallocated quotas; if a notification mechanism will be put in place to announce the number of unallocated quotas through website or hotlines;*
- (c) *the number of complaint cases received in each of the past three years in which the complainants were not able to get through to the TAS hotlines; if there are channels for compiling statistics on the number of unsuccessful booking; given that it has been reported that such hotlines were always busy, if the authorities have assessed if the present 500-odd telephone lines are adequate in meeting the demand;*
- (d) *given that some chronic patients complained that they were not able to receive timely treatment because the consultation quotas booked through telephone were full, if the authorities have any plan to assist them in securing the unallocated quota; and*
- (e) *focusing on the complicated instructions of the TAS system, what improvement measures the authorities have; what changes are actually made as the authorities have indicated that they would streamline the procedures?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the service of public GOPCs of the Hospital Authority (HA) is primarily targeted at the low-income and underprivileged groups, including the chronically ill, frail and vulnerable or disabled elders, and low-income families. Patients taken care of by GOPCs can be broadly divided into two main categories, namely chronic disease patients with stable conditions (for example, patients with diabetes

mellitus or hypertension) and episodic disease patients with relatively mild symptoms (for example, patients who have fever or suffer from influenza, gastroenteritis, and so on). In order to enable civil servants to return to work as early as possible after treatment, GOPCs offer priority consultation quotas to civil servants at specified periods (half an hour in the morning and afternoon).

Since 2006, the HA has introduced a TAS for individuals to book a consultation timeslot at GOPCs, in order to improve the crowded queuing situation, reduce the risk of cross-infection at GOPCs and make the best use of GOPC consultation quotas. The HA has been keeping in view the use of the TAS by different groups of the public. It also regularly reviews the operation mode of the appointment system and implements corresponding improvement measures with a view to optimizing the use of resources and providing high quality services.

My reply to the respective parts of the question is as follows:

- (a) At present, there are 23 GOPCs in the KWC of the HA, offering consultation quotas to the public through the TAS system. KWC also offers priority consultation quotas to civil servants at specified periods. In 2009, KWC offered more than 1.5 million consultation quotas in total, and currently about 500 priority consultations quotas per day are allocated to civil servants. Civil servants will receive consultation as soon as they are allocated a consultation quota, and, in general, a cancellation of allocated quota is unlikely to occur. To make better use of consultation quotas, priority quotas not being allocated will be released immediately to the public via the TAS system after the specified periods for civil servants. In 2009, the overall utilization rate of the GOPCs in KWC was about 97%.
- (b) The TAS system is designed to link the GOPCs in the same cluster together to form a network. When the consultation quotas of a particular clinic are full, the system will automatically connect to the nearby clinics in the same cluster and identify remaining consultation quotas for members of the public to choose via the TAS, with a view to making better use of the unallocated GOPC quotas. The TAS system will also adjust consultation quotas according to various factors, such as quotas cancelled by the public, allocation of manpower, unallocated civil servant priority quotas,

and so on, to achieve better utilization of consultation quotas. The HA has also uploaded a report on the unused quotas of particular GOPCs on average for the preceding four weeks at its website for public information. In 2009, the overall utilization rate of GOPCs over the whole territory was about 97%.

(c) and (d)

The TAS is designed mainly for use by patients with episodic illnesses. Chronic disease patients requiring regular follow-up consultations are assigned the next timeslot after each consultation, and do not need to book appointments through the TAS for their follow-up consultations. Currently, there are a total of some 500 telephone lines which operate 24 hours a day and allow patients to reserve consultation quotas available in the next 24 hours. In order to ensure services are provided to primary service targets, the TAS accords priority to elderly people, Comprehensive Social Security Assistance recipients and people granted with medical fee waiver, and a mechanism has been put in place to prevent abuse of appointment (for example, missing appointments repeatedly, and so on). Past records have indicated that the average proportion of utilization of the TAS system telephone lines was not high. Nonetheless, circumstances regarding usage vary during different seasons and time periods, and it would be inevitable for lines to be relatively busy at certain days and time periods.

There are more than 2.5 million episodic illness consultation quotas offered by GOPCs in a year, and the number of complaints received is around 40 to 50 annually, including complaints concerning various administrative arrangements, as well as those concerning failure to connect to the TAS or acquire a consultation quota. The HA will continue to monitor the usage of telephone lines of the TAS system. To better utilize unallocated quotas, the HA has also produced short clips to educate patients the procedures in cancelling a consultation appointment, so that those patients who are not in need will release the quota allocated to him/her for others' use. In 2009, 93% of elderly patients were allocated a GOPC timeslot within two working days through the TAS.

- (e) Since the introduction of the TAS in 2006, the HA has been conducting review and rolled out enhancement measures to streamline the telephone appointment process making the system more user-friendly. These measures include simplifying data entry procedures, increasing the number of telephone lines to more than 500 while operating 24 hours a day, offering priority quotas that focus on primary service targets, introducing reminder messages to assist patients to use the TAS system, and so on. Since September 2010, people with hearing impairment can also make appointments by facsimile. Moreover, the HA has provided assistance to the elderly to use the TAS through various channels. These include the issuance of a "Telephone Appointment Pocket Tips Guide" to clinics, offices of District Councillors and institutions providing service to the elderly, and collaboration with community organizations to guide and assist the elderly to use the TAS system. Besides, help desks have been set up in every GOPC to provide suitable assistance to the elderly and individuals who may encounter difficulties in using the TAS.

Personnel Engaged in Lift Works and Escalator Works

18. **MR IP WAI-MING** (in Chinese): *President, accidents involving lifts have occurred from time to time in recent years and some members of the industry have reflected that these accidents are connected with the manpower engaged in lift works and escalator works. In this connection, will the Government inform this Council:*

- (a) *of the latest numbers of lifts and escalators in Hong Kong and the respective increase in the numbers of lifts and escalators in each of the past three years;*
- (b) *of the respective numbers of competent lift and escalator engineers and lift and escalator workers in Hong Kong at present; whether it knows their respective duties; and whether the authorities have compiled statistics on the number of those among such persons who*

are actually engaged in maintenance and repair works of lifts and escalators at present; if the authorities do not keep records of the relevant statistics, whether they will consider keeping records of such statistics in future;

- (c) given that some lift and escalator practitioners have reflected to me that when they carried out the maintenance and repair works of lifts and escalators, the manpower did not meet that required by the Codes of Practice, whether the Government had received such complaints in the past three years; if it had, of the respective numbers of complaints it had received each year and the follow-up actions taken; and*

- (d) given that the bodies representing lift and escalator practitioners have indicated that the industry is faced with the problem of the lack of new practitioners joining the industry in recent years, whether it knows the respective numbers of lift and escalator engineers and lift and escalator workers aged 20 or below, aged between 21 and 30 and between 31 and 40 who had joined the industry in the past three years; whether the authorities have considered taking any measure to attract people to join the industry as lift and escalator practitioners; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, in Hong Kong, lifts and escalators are regulated by the Lifts and Escalators (Safety) Ordinance (Cap. 327) (hereinafter referred to as "the existing Ordinance"). Under the existing Ordinance, examination and safety certification of lifts and escalators must be carried out by registered lift engineers and registered escalator engineers respectively. It also stipulates that only competent lift workers and competent escalator workers meeting the employment requirements are authorized to carry out relevant works independently. The Code of Practice for Lift Works and Escalator Works (CoP) established under the existing Ordinance provides practical guidelines on the carrying out of lift and escalator works, including guidelines for compliance by registered contractors in respect of manpower arrangement. To strengthen the regulatory control over lift and escalator safety,

we submitted the Lifts and Escalators Bill (the Bill) to the Legislative Council on 11 May 2011. Amid other improvement measures, the Bill uplifts the qualification requirements for registration as lift and escalator engineers and introduces a registration system for lift and escalator workers. Following the introduction of the Bill, the Electrical and Mechanical Services Department (EMSD) and trade representatives have been reviewing the existing CoP, including evaluating the manpower requirement for carrying out maintenance and repair works by registered contractors.

My reply to the four parts of the question is as follows:

- (a) At present, there are about 58 000 lifts and 8 000 escalators in Hong Kong. In the past three years, the numbers, on average, increased by about 780 and 170 respectively each year.
- (b) At present, there are 277 registered engineers and 4 950 competent workers who are engaged in lift and escalator works in Hong Kong. The main duty of a registered engineer is to examine and certify whether a lift or an escalator is in safe working order. As for competent workers, they are mainly responsible for carrying out various kinds of lift and escalator works, including installation, maintenance and repair works, for which they are qualified. In the past year, 188 registered engineers (68% of the total) conducted periodic examination and issued safety certificates for lifts or escalators. According to information provided by registered contractors, there are about 4 790 competent workers (97% of the total) engaged in the repair and maintenance works for lifts or escalators.
- (c) The existing CoP expressly stipulates that registered lift contractors must assign at least two lift workers for carrying out 10 types of lift works. While the EMSD has not received any complaint about breaching of the abovementioned stipulation by registered contractors over the past three years, there is a labour union of the trade relaying to the Administration the concern of workers on relevant guidelines in the CoP. In this connection, the EMSD has

issued a circular to registered lift contractors reminding them to strictly comply with the CoP guidelines. The EMSD will continue to conduct inspections and monitoring to ensure that the registered contractors would comply with the CoP guidelines.

- (d) Of the 35 persons who have registered as lift or escalator engineers over the past three years, 23 (65% of the total) are between 31 and 40 years old while the remaining 12 (35% of the total) are aged 41 or above. Regarding workers, there are 1 793 persons who have become competent workers over the past three years. The EMSD does not keep record on the age profiles of competent workers before 2010. According to information provided by registered contractors, among the 625 persons who became competent workers in 2010, 122 (20% of the total) are aged 30 or below, 276 (44% of the total) are between 31 and 40 years old, and the remaining 227 (36% of the total) are aged 41 or above.

For ensuring sufficient manpower could be deployed in the trade to provide services, we will continue to collaborate with other major stakeholders to monitor the manpower situation in the industry and take appropriate measures, such as enhancing manpower training and publicity, to address the manpower demand when necessary. Regarding the overall manpower situation of the construction industry, the Development Bureau has launched a series of "Build Up" publicity programme in May, including "Announcements of Public Interest" broadcasts on television, newspaper and bus advertising, a dedicated website and large-scale outdoor advertisements. We trust that these measures would lift the image of the construction industry and attract new entrants to the industry.

Native-speaking English Teacher Schemes in Primary and Secondary Schools

19. **MS AUDREY EU:** *President, regarding the Native-speaking English Teacher (NET) Schemes in primary and secondary schools, will the Government inform this Council:*

- (a) of the respective total numbers of NET posts, NETs employed and NET vacancies in primary and secondary schools in each of the past three school years, together with the anticipated number of NET posts in the school year 2011-2012 (to be listed in the following table);

		Primary schools	Secondary schools
<i>Number of NET posts</i>	2011-2012 (anticipated)		
	2010-2011		
	2009-2010		
	2008-2009		
<i>Number of NETs employed</i>	2010-2011		
	2009-2010		
	2008-2009		
<i>Number of NET vacancies</i>	2010-2011		
	2009-2010		
	2008-2009		

- (b) of the retention and wastage of NETs in primary and secondary schools in each of the past three school years (to be listed in the following table);

		Primary schools	Secondary schools
<i>Number of NETs who left the NET Schemes</i>	2010-2011		
	2009-2010		
	2008-2009		
<i>Average years of service of NETs who left the NET Schemes</i>	2010-2011		
	2009-2010		
	2008-2009		
<i>Retention rate of NETs</i>	2010-2011		
	2009-2010		
	2008-2009		
<i>Wastage rate of NETs</i>	2010-2011		
	2009-2010		
	2008-2009		

- (c) of the respective total numbers of NETs recruited for primary and secondary schools in each of the past three school years who held the professional qualifications of Post-graduate Diploma in Education (PGDE) or Teaching of English as a Second Language (TESL) or equivalent (to be listed in the following table); and

		2010-2011	2009-2010	2008-2009
<i>Primary schools</i>	<i>Number of NETs holding PGDE or equivalent</i>			
	<i>Number of NETs holding TESL or equivalent</i>			
<i>Secondary schools</i>	<i>Number of NETs holding PGDE or equivalent</i>			
	<i>Number of NETs holding TESL or equivalent</i>			

- (d) *of the respective total numbers of NETs employed in primary and secondary schools in each of the past three school years, broken down by the category of qualifications for appointment of NETs (to be listed in the following table)?*

	<i>Categories of qualifications for appointment of NETs</i>	2010-2011	2009-2010	2008-2009
<i>Primary schools</i>	<i>Category 1</i>			
	<i>Category 2</i>			
	<i>Category 3</i>			
	<i>Category 4</i>			
	<i>Category 5</i>			
<i>Secondary schools</i>	<i>Category 1</i>			
	<i>Category 2</i>			
	<i>Category 3</i>			
	<i>Category 4</i>			
	<i>Category 5</i>			
	<i>Category 6</i>			
	<i>Category 7</i>			

SECRETARY FOR EDUCATION: President, my reply to the four-part question relating to the Member's concern about the NET Schemes is as follows:

- (a) The numbers of NET posts, NETs employed and NET vacancies in primary and secondary schools in the past three school years, together with the anticipated number of NET posts in the school year 2011-2012 are as follows:

		<i>Primary School</i>	<i>Secondary School</i>
Number of NET posts	2011-2012 (anticipated)	481	441
	2010-2011	481	442
	2009-2010	492	444
	2008-2009	494	445
Number of NETs employed	2010-2011	477	409
	2009-2010	484	414
	2008-2009	489	416
Number of NET vacancies	2010-2011	4	33
	2009-2010	8	30
	2008-2009	5	29

- (b) The retention and attrition of NETs in primary and secondary schools in the past three school years are as follows:

		<i>Primary School</i>	<i>Secondary School</i>
Number of NETs who left the NET Schemes	2010-2011	Not available at the moment as the school year has not yet come to a close	
	2009-2010	56	64
	2008-2009	59	34
Average years of service of NETs who left the NET Schemes	2010-2011	Education Bureau does not keep this information	
	2009-2010		
	2008-2009		
Retention Rate of NETs [@]	2010-2011	Not available at the moment	
	2009-2010	84%	79%
	2008-2009	76%	81%
Attrition rate of NETs [#]	2010-2011	Not available at the moment	
	2009-2010	16%	21%
	2008-2009	24%	19%

Notes:

@ Retention rate is calculated as the difference between the total and the attrition rate of that particular year.

The attrition rate is defined as the percentage of the number of NETs leaving the NET Schemes on completion of contract out of the total number of NETs completing the contract in that particular school year.

- (c) The numbers of NETs recruited for primary and secondary schools in the past three school years who held the professional qualifications of PGDE or TESL or equivalent at the time of appointment are as follows:

		2010-2011	2009-2010	2008-2009
Primary School	Holding PGDE or equivalent	256	273	285
	Holding TESL or equivalent	475	465	311
Secondary School	Holding PGDE or equivalent	378	386	392
	Holding TESL or equivalent	151	159	154

- (d) The breakdown of the numbers of NETs employed in primary and secondary schools by category of qualifications at the time of appointment in the past three school years is as follows:

	<i>Categories of qualifications for appointment of NETs</i>	2010-2011	2009-2010	2008-2009
Primary School	Category 1	9	5	7
	Category 2	95	99	113
	Category 3	148	152	149
	Category 4	205	201	190
	Category 5	20	27	30
Secondary School	Category 1	23	24	22
	Category 2	70	80	85
	Category 3	100	103	113
	Category 4	68	63	62
	Category 5	117	116	110
	Category 6	16	16	17
	Category 7	15	12	7

Residential Care Homes for Persons with Disabilities

20. **DR PAN PEY-CHYOU** (in Chinese): *President, according to the existing standardized assessment mechanism for residential services for persons with disabilities, persons with disabilities who wish to apply for subsidized residential care services for persons with disabilities provided by the Government have to*

undergo assessment by the Social Welfare Department (SWD) in order to register on the waiting list for allocation of residential care places via the SWD's Central Referral System for Rehabilitation Services (CRSRehab). However, it is noted that the supply of subsidized places has long been inadequate, rendering most persons with disabilities having to wait for places for over eight to 12 years, while some relatively younger persons with disabilities have to temporarily reside in elderly homes as a result, and they and their carers are thus physically and mentally exhausted. In this connection, will the Government inform this Council:

- (a) whether it knows the existing numbers of places provided by subsidized residential care homes for persons with disabilities (RCHDs), self-financing RCHDs run by non-government organizations (NGOs) and private RCHDs, as well as their respective occupancy rates;*
- (b) of the respective numbers of people on the waiting list at present, the average waiting time as well as the longest waiting time for various types of residential care places for persons with disabilities;*
- (c) of the additional subsidized places provided by the Government for each type of home care services for persons with disabilities in each of the past 10 years;*
- (d) given that the Government has launched a four-year pilot Bought Place Scheme (BPS) for private RCHDs in 2010-2011 to purchase a total of around 300 places by two phases, whether the authorities have assessed if the number of places increased as a result of the scheme is adequate for easing the prolonged waiting time; if so, how far the waiting time can actually be shortened; if not, of the reasons for not purchasing more places;*
- (e) of the reasons for not including the self-financing RCHDs run by NGOs in the BPS; whether the authorities will consider extending the BPS to cover this type of RCHDs; if not, of the reasons for that; and*

- (f) *for those who are already on the CRSRehab waiting list for subsidized places but not qualified for the Comprehensive Social Security Assistance, what suitable services the authorities are offering at present to support these persons with disabilities and their carers; whether the authorities will consider offering financial assistance to persons with disabilities and their carers, so that they can be admitted to private RCHDs or self-financing RCHDs run by NGOs first, and their carers can afford to use the appropriate equipment or services which can relieve their burden; if not, of the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, in accordance with the strategic directions of the Hong Kong Rehabilitation Programme Plan, the Government has been adopting a three-pronged approach to encourage participation from different sectors in providing diversified residential care services for persons with disabilities, *viz* — (1) regulating RCHDs, so as to ensure the service quality on one hand and help the market develop residential care homes of different types and operational modes on the other; (2) supporting NGOs to develop self-financing homes; and (3) continuing to steadily increase the number of subsidized residential care home places. In line with these strategic directions, the Government will introduce a licensing scheme for RCHDs. In tandem, the Government has launched the pilot BPS for private RCHDs with a view to encouraging private operators of RCHDs to upgrade their service standard, shortening the waiting time for services by increasing the overall supply of subsidized residential care places, and helping the market develop more service options. Furthermore, the Government has been continuously increasing the provision of subsidized residential places in recent years. In 2010-2011 and 2011-2012, the Government will provide 1 046 additional residential care places. Besides, the Government has already earmarked 10 sites in future development projects for the construction of new RCHDs. We estimate that there will be an additional provision of around 1 006 residential care places in the next five years (2012-2013 to 2016-2017), subject to the progress of project planning and preparatory work. The Government will continue to step up efforts in identifying new resources and suitable premises for setting up new RCHDs in order to steadily increase the number of subsidized residential places for persons with disabilities. Our reply to the questions raised by Dr PAN Pey-chyou is set out below:

- (a) As at 31 March 2011, the respective number of homes and places regarding subvented RCHDs, self-financing RCHDs operated by NGOs and private RCHDs are tabulated below:

<i>Type of RCHDs</i>	<i>Number of homes</i>	<i>Number of places</i>	<i>Enrolment Rate</i>
Subvented home	241	11 682	95% ^{Note}
Self-financing home	21	376	90%
Private home	70	3 688	62%

Note:

Three new rehabilitation services centres commenced service in the third and fourth quarters of 2010-2011 respectively, and are at present taking in new cases by phases. The enrolment rate will go up upon the full operation of these centres.

- (b) The number of persons on the waiting list and the average waiting time for various types of RCHDs as at 31 March 2011 are set out at Annex 1. The SWD has not kept statistics on the longest waiting time.
- (c) The number of subvented places for each type of RCHDs and the rate of increase over the past 10 years are set out at Annex 2.
- (d) and (e)

In October 2010, the SWD invited private RCHDs to join the pilot BPS. Under the pilot BPS, the SWD will purchase 300 places in two phases. Upon the completion of the vetting exercise, the SWD has purchased 60 places from two private RCHDs so far. Subject to the selected operators meeting the requirements of the pilot BPS, we expect to purchase 100 residential care places in 2011-2012.

The pilot BPS will increase the supply of subsidized places and help improve the waitlisting situation. Given that the two BPS homes mentioned above are in the process of taking in new cases and arranging admission of residents, and that the number of persons on the waiting list changes over time, we cannot assess the actual impact on the average waiting time brought about by the scheme at this juncture.

If more high-quality places could be available in the private market in future, we will actively consider increasing the number of place to be purchased. The SWD will conduct mid-term reviews on the pilot BPS and refine the operational details (including the number of places to be purchased and whether to extend the pilot BPS to cover self-financing homes) where appropriate. The SWD will also conduct a review on the long-term feasibility of the pilot BPS before its expiry in 2014.

- (f) At present, a majority of persons with disabilities waitlisting for subsidized RCHDs and their family members/carers are receiving various types of support service provided or subvented by the SWD. These services aim at helping persons with disabilities to continue to live in the community while relieving the burden and the stress of their family members/carers.

The SWD set up 16 district-based District Support Centres for Persons with Disabilities (DSCs) across the territory in January 2009 to provide one-stop support services for persons with disabilities and their family members and carers, so that they can receive the required services at the same centre within the district. DSCs also provide support and training services for carers of persons with disabilities with a view to relieving their burden and enhancing their caring capacity, thereby enabling their relatives with disabilities to continue to live in the community and stay with their family or friends.

We are mindful of the special needs of persons with severe physical and intellectual disabilities and their family members/carers in community support services while waiting for subsidized residential care services. In this regard, the SWD has introduced a three-year pilot scheme since March 2011 in Kwun Tong and Tuen Mun District to provide home-based care services for persons with severe physical and intellectual disabilities who are waitlisting for subsidized residential care services. We expect that a total of about 540 persons with severe disabilities can be served upon full implementation of the scheme. The scheme will help persons with severe disabilities meet their needs for personal care, nursing care

and training, thereby relieving the stress of their family members/carers and improving their quality of life.

Apart from the above-mentioned services, the SWD also provides diversified community support services with a view to strengthening the independent living abilities of persons with disabilities, enabling them to continue to live at home and fully integrate into the community, thereby alleviating the stress of their family members and carers. These community support services, which aim to provide home care and rehabilitation training services to persons with disabilities living in the community, include Transitional Care and Support Centre for Tetraplegic Patients, Specialised Home-based Training and Support Service, Day Care Service for Persons with Severe Disabilities, Residential Respite Service, and so on.

For persons with disabilities who have financial difficulties but are not recipients of the Comprehensive Social Security Assistance Scheme (CSSA), they can apply for immediate or short-term financial assistance from charitable funds for purchasing necessary rehabilitation and medical appliances, such as Yan Chai Tetraplegic Fund administered by the Yan Chai Hospital Board, Samaritan Fund administered by the Hospital Authority, Li Po Chun Charitable Trust Fund, Tang Shiu Kin and Ho Tim Charitable Fund, Brewin Trust Fund and Kwan Fong Trust Fund for the Needy administered by the SWD. Persons in need can also approach medical social workers, social workers of integrated family service centres (IFSCs) or NGOs to apply for the relevant charitable funds. Social workers will assess the conditions of the applicants, including their financial conditions, having regard to the respective criteria and categories of charitable funds and provide them with the appropriate assistance. Besides, non-CSSA recipients who cannot afford medical fees because of financial difficulties may apply for a fee waiver through the medical social services units of public hospitals and clinics, or IFSCs or Family and Child Protective Services Units under the SWD.

Annex 1

Number of persons on waiting list and waiting time for various types of residential care services for persons with disabilities (as at 31 March 2011)

<i>Type of services</i>	<i>Number of persons on waiting list (as at end of March 2011)</i>	<i>Average waiting time (2010-2011) (months)</i>
Residential Special Child Care Centre	66	17.0
Long Stay Care Home	1 116	38.2
Halfway House	784	8.2
Hostel for Moderately Mentally Handicapped Persons	1 386	80.4
Hostel for Severely Mentally Handicapped Persons	1 995	73.2
Care-and-Attention Home for Severely Disabled Persons	361	39.6
Hostel for Severely Physically Handicapped Persons	386	38.6
Care-and-Attention Home for the Aged Blind	103	4.0
Supported Hostel	1 001	25.0
Small Group Home for Mildly Mentally Handicapped Children/Integrated Small Group Home	51	22.4
Integrated Vocational Training Centre (residential service)	N.A. ^{Note}	N.A. ^{Note}

Note:

There is no central waiting list for this service as applicants may apply to the operating units directly or through referrals for the service.

Annex 2

Number of subsidized places for various types of RCHDs over the past 10 years

<i>Type of services</i>	<i>2001-2002</i>	<i>2002-2003</i>	<i>2003-2004</i>	<i>2004-2005</i>	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>	<i>Rate of Increase over the past 10 years (%)⁽¹⁾</i>
Residential Special Child Care Centre	108	108	108	102 ⁽²⁾	102	110	110	110	110	110	1.85%
Long Stay Care Home	980	980	980	1 005	1 407	1 407	1 407	1 407	1 407	1 507	53.78%

Type of services	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	Rate of Increase over the past 10 years (%) ⁽¹⁾
Halfway House	1 349	1 349	1 349	1 429	1 509	1 509	1 509	1 509	1 509	1 509	11.86%
Hostel for Moderately Mentally Handicapped Persons	1 828	1 848	1 928	1 898 ⁽³⁾	2 044	2 054	2 054	2 178	2 178	2 269	24.12%
Hostel for Severely Mentally Handicapped Persons	2 475	2 592	2 672	2 695	2 889	2 889	2 940	3 012	3 058	3 193	29.01%
Care-and-Attention Home for Severely Disabled Persons	600	600	665	665	705	765	765	807	857	908	51.33%
Hostel for Severely Physically Handicapped Persons	456	453 ⁽⁴⁾	461	461	461	461	461	528	528	573	25.66%
Home for the Aged Blind	174	174	174	174	20 ⁽⁴⁾	N.A. ⁽⁵⁾					N.A.
Care-and-Attention Home for the Aged Blind	725	725	725	725	815	825	825	825	825	825	13.79%
Supported Hostel	223	243	249	279	307	309	370	400	400	554	148.43%
Supported Housing	17	N.A. ⁽⁶⁾									N.A.
Small Group Home for Mildly Mentally Handicapped Children/Integrated Small Group Home	96	96	96	72 ⁽⁷⁾	56 ⁽⁷⁾	56	56	56	56	64	-33.33%
Integrated Vocational Training Centre (residential service)	N.A. ⁽⁸⁾		170	170	170	170	170	170	170	170	N.A.

Notes:

- (1) The rate of increase is a comparison between the number of places in 2001-2002 and 2010-2011.
- (2) To meet the change in service needs, some of the places of Residential Special Child Care Centres have been re-engineered as places of Day Special Child Care Centres and Early Education and Training Centres since 2004-2005.
- (3) In 2004-2005, owing to the cessation of operation of Po Leung Kuk Pui Nang Hostel, the number of places in Hostel for Moderately Mentally Handicapped Persons was reduced. The resources for the places concerned have been re-allocated to other NGOs for continuous operation of residential services.
- (4) In 2002-2003, some of the Supported Housing places were re-integrated into places in Hostel for Severely Physically Handicapped Persons. Meanwhile, owing to the cessation of operation of the SWD's Choi Wan Hostel, the number of places in Hostel for Severely Physically Handicapped Persons was slightly reduced in that year.
- (5) Homes for the Aged Blind had been transformed into Care-and-Attention Homes for the Aged Blind in stages since 2005-2006, and the transformation was completed in 2006-2007.
- (6) Since 2002-2003, Supported Housing service has been integrated into Hostel for Severely Physically Handicapped Persons.
- (7) In 2004-2005 and 2005-2006, some of the resources for Small Group Homes for Mildly Mentally Handicapped Children were re-allocated for providing additional places in Supported Hostels.
- (8) The Skills Centres operated by NGOs have been re-engineered and transformed as Integrated Vocational Training Centres since 2003-2004.

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

DEPUTY PRESIDENT (in Cantonese): Bills. We now resume the Second Reading debate on the Electoral Legislation (Miscellaneous Amendments) Bill 2011.

**ELECTORAL LEGISLATION (MISCELLANEOUS AMENDMENTS)
BILL 2011****Resumption of debate on Second Reading which was moved on 4 May 2011**

DEPUTY PRESIDENT (in Cantonese): Mr TAM Yiu-chung, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

MR TAM YIU-CHUNG (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on the Electoral Legislation (Miscellaneous Amendments) Bill 2011 (the Bills Committee), I now address the Council on the major issues deliberated by the Bills Committee.

The Electoral Legislation (Miscellaneous Amendments) Bill 2011 (the Bill) seeks to introduce various changes to electoral and related arrangements for returning the Chief Executive, Legislative Council Members, District Council (DC) members and Village Representatives. For the election petition mechanism, some members were of the view that it was not appropriate to extend the leap-frog appeal mechanism applicable to the Chief Executive Election to the elections of the Legislative Council, and especially DC and Village Representatives. Members pointed out that the proposal was not in compliance with the principle for the handling of appeals by the Court of Final Appeal (CFA). Furthermore, as the election petitions had to be disposed of by the CFA within a short period of time, the proposal would also affect other appeal cases.

The Administration explained to the Bills Committee that this leap-frog appeal mechanism enables speedy resolution of disputes in relation to the constitution of the Legislative Council and DCs as well as the office of Village Representatives. It is therefore beneficial to Legislative Council Members, DC members, Village Representatives and even electors involving in the election petitions.

In response to the suggestion of Members, the Administration agreed to propose Committee stage amendments (CSAs) to extend the appeal period for appeals against the determination of election petitions by the Court of First Instance (CFI) from seven working days to 14 working days. This would provide the aggrieved party with more time to consider whether an appeal should be lodged and to make preparations in case an appeal is to be lodged.

Regarding the proposal that candidates can send promotional letters to electors free of postage, the Bills Committee welcomed the Administration's proposed arrangement in the Bill, under which candidates can send joint promotional letters. In order to facilitate the conduct of electioneering activities and political party development, members requested the Administration to further relax the relevant arrangement. Later, in response to members' request, the Administration will also move CSAs to provide greater flexibility to candidates in sending promotional letters to electors free of postage.

For the financial assistance scheme and election expenses limit for DC elections, a member opined that the Administration should further increase the amount of financial assistance to encourage more people to run in the election. Another member considered the proposed election expenses limit of \$53,800 too low, which would create unfairness to those candidates who have financial resources but inadequate time to carry out electioneering work.

Deputy President, Legislative Council Members have been very concerned about this issue. Under the existing arrangement, after the Registration and Electoral Office checked the election return of a candidate, it would refer any possible breach of the Elections (Corrupt and Illegal Conduct) Ordinance (the Ordinance), irrespective of how trivial it is, to the Independent Commission Against Corruption (ICAC) for investigation. Members pointed out that this

would cause great nuisances to the candidate concerned, who may incur a fairly large amount of legal costs to seek an order from the CFI to grant relief. Members therefore urged the Administration to expeditiously put in place a special arrangement to deal with minor errors or omissions in the election returns. After consideration of the strong views expressed by members, the Administration has agreed to introduce CSAs to amend the Ordinance in order to implement a de minimis arrangement for handling election returns with minor errors or omissions. Members supported the relevant CSAs.

Members have divergent views over the increase of the election expenses limit for the Chief Executive Election from \$9.5 million to \$13 million. While a member considered the scale of the proposed increase too large, another opined that the Administration should not cap the election expenses limit.

Deputy President, the above is my report on the work of the Bills Committee. The following is my personal views on the Bill.

The Bill is mainly divided into four major areas, namely improving the appeal arrangement relating to election petitions in respect of elections at various levels; raising the election expenses limit for elections of the Chief Executive and DC; refining the arrangement for candidates to send promotional letters to electors free of postage and rectify minor errors or omissions found in the election returns in respect of elections at various levels.

The various proposals in the Bill help to remove the uncertainties associated with the appeal arrangement in respect of election petitions, in particular, under the existing election laws, as well as facilitate the conduct of electioneering activities by candidates at elections at various levels. Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports and welcomes the Bill and the various amendments proposed by the Government.

To facilitate the conduct of electioneering activities by candidates at elections at various levels, the Bill proposed to raise the election expenses limits for candidates at the Chief Executive Election in 2012 and DC elections in 2011. While the limit of the former will increase from the present \$9.5 million to \$13 million, the latter will increase from the present \$48,000 to \$53,800.

Some members opined that as electors of the Chief Executive Election are only the 1 200 members of the Election Committee, there is no need to significantly increase the election expenses limit of the Chief Executive Election. They also pointed out that the significant increase in the election expenses limit might deter people with limited financial ability from standing in the Chief Executive Election. The DAB nonetheless noted that the number of Election Committee members will increase from 800 to 1 200 in the 2012 Chief Executive Election, of which 75 new members will be elected DC members returned from various constituencies territory-wide. Coupled with the significance of the post of Chief Executive, candidates should therefore be encouraged to introduce their political platforms to the general public and listen to their views. As such, candidates of the Chief Executive Election might need more resources, which necessitated an increase in the election expenses limit of the relevant election. Thus, in our opinion, this amendment only seeks to provide greater flexibility in the use of resources in electioneering activities. There is no question of restricting people with limited financial means to run in the Chief Executive Election.

Besides, in the Bill and the relevant CSAs, the Government has also proposed to improve the arrangement for candidates of Legislative Council election to send promotional letters to electors free of postage. For instance, allowing a list of Legislative Council geographical constituency (GC) candidates and DC (second) functional constituency (FC) candidates to send promotional letters containing information of other candidates on the list of that Legislative Council GC and DC (second) FC to all electors free of postage with the consent of the other candidates on the list of that Legislative Council GC and DC (second) FC.

We think that this arrangement can enable political parties or groupings which have deployed members to run in the Legislative Council GC elections and DC (second) FC elections to promote other candidates from the same political party or grouping who are on the same list of that Legislative Council GC and DC (second) FC. This does not only provide greater flexibility for various political parties or groupings and candidates to conduct electioneering activities, but is also a facilitating approach.

Last of all, in the CSAs proposed to the Bill, the Government has provided an arrangement for candidates at elections at various levels to make rectifications

for minor errors made in the election returns. The DAB welcomes this proposal. The clean election environment in Hong Kong is duly related to the extremely stringent mechanism of election expense return. Under the existing mechanism of election expense return, whenever a candidate of an election has made errors in their election expense return, regardless of how trivial it is or involves only a couple or tens of dollars, the case will be referred to the ICAC for investigation, or the candidate must seek an order from the Court to grant relief. As a result of this provision, not only the candidates concerned will have to incur considerable amount of manpower and resources to settle the matter, such inadvertent minor errors will also waste the precious resources of the ICAC and the Court. This measure, which will lead to immense waste of manpower and resources, has been criticized by major political parties or groupings and Members.

Therefore, after listening to the views expressed by various parties, the Government agreed to propose CSAs to specify the de minimis limit for corrections of minor errors in election returns of candidates in elections at various levels. For instance, the limits are \$5,000 for candidates at the Chief Executive and DC (second) FC elections, \$3,000 for candidates at the Legislative Council GC elections and \$500 for candidates at DC elections. If the candidate did not make false statement with intent or the election expenses has exceeded the maximum limit or prescribed limit for correction, he can rectify the errors and omissions in respect of election expenses found in the election return within the prescribed time limit without seeking an order from the Court to grant relief.

The DAB considers that the CSAs proposed by the Government can resolve the longstanding nuisances caused to candidates relating to minor errors in respect of election expenses found in the election returns. Furthermore, they can ensure that Hong Kong's clean election culture could prevail. We think these CSAs are worthy of support.

With these remarks, I support the original motion and the various CSAs proposed by the Government.

DR MARGARET NG (in Cantonese): Deputy President, I have great reservation about Part 2 of the Bill, which concerns with the amendments relating to appeal in relation to election petitions. They originate from a provision of the existing

law, which provides that the certificate issued by the Court of First Instance (CFI) after the determination of an election petition is considered final.

In the case *Mok Charles Peter v. Tam Wai Ho*, the Court of Final Appeal (CFA) declared the provision invalid because it had deprived people of their right to appeal, and was therefore unconstitutional. However, the judgment handed down by the CFA has a legal effect that even if the relevant provision (section 67 of the Legislative Council Ordinance) is not amended, it has become invalid. In other words, the determination is no longer final and appeal can be lodged through normal court proceedings. Although the CFA has not officially touched on provisions relating to the elections of DCs and Village Representatives, the principle is actually the same. So if the case, after lodging an appeal, is found to be consistent with the conditions prescribed in the existing Hong Kong Court of Final Appeal Ordinance (Cap. 484), appeal can be lodged to the CFA.

Deputy President, I do not oppose the revision of the existing provisions concerning the Legislative Council or other committees by way of provisions, which has clearly provided for the appeal procedures. What I oppose is that the present proposal provides that appeal can be lodged to the CFA direct by way of leap-frogging, and this has become a mandatory practice for elections of the Legislative Council, DCs or Village Representatives. At present, only appeals in respect of election petitions arising from the Chief Executive Election can be lodged from the CFI to the CFA by way of leap-frogging. However, as Members may aware, the Chief Executive Election is a very unique election. Its uniqueness ensures that leap-frogging is only possible for well justified appeals. But what uniqueness does it have if appeal to the CFA by leap-frogging is made possible for elections at all levels and for all representatives? What is more, given that there is only one Chief Executive, there can be only one election petition and the burden on the CFA is therefore limited. However, if appeals in relation to elections at different levels can be lodged to the CFA, its burden will be very heavy.

The most important reason for my opposition is that this approach has violated all our known principles. The first principle concerns with the nature of the CFA, which is the final appellate court. The Chinese rendition of the CFA is the last trial, whereas "final appeal" means the ultimate appeal lodged after an interlocutory appeal against the ruling of the Court of Appeal. Therefore, according to the existing Hong Kong Court of Final Appeal Ordinance, a leave to

appeal must be obtained from the CFA. When granting a leave to appeal, the CFA should not only consider if the case involves a large amount of money, section 22(1)(b) provides that the case must be of great public interests and importance before a leave to appeal to the CFA will be granted. This is not because the Chief Justice of the CFA is lazy, but because the CFA has a special function. The CFA does not make a judgment or a trial of the facts of a case or the relevant procedures; it mainly makes authoritative analysis and judgment on problems of legal principle, thereby making judgments on issues involving justice or justice of particular importance. As a result, our law will develop along the line of the principle ultimately determined by the CFA. One can imagine that the majority of election petitions do not comply with the abovementioned conditions.

Just take a look at the grounds on which election petitions were lodged under the existing law. Members may find that they are mostly concerned with facts. I really cannot think of any that is related to a point of law. It is not the function of the CFA to make judgment on facts upon request.

In fact, people in the legal sector are well aware that if the judgments made by the CFI and the Court of Appeal on certain facts are consistent, the case will not be tried by the CFA. This is completely different from the legal system of the Mainland, where cases have to go through the first, second and final instances. It is indeed a violation of the principle of the CFA to require all appeals relating to election petitions to be directly lodged to the CFA.

Besides, it has also violated the principle of leap-frogging. Deputy President, section 27C of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) has provided what leap-frogging is. What are the rules to follow? There are some basic requirements to be met in the first place, and then the consent of the two parties concerned must be obtained before leap-frogging can be lodged. What are the basic requirements then? To put it simply, it will be a waste of time to refer the case to the Court of Appeal as all the arguments have been presented. What is more, given that the Court of Appeal is subject to an even higher level of judgment, it is downright impossible for it to rule in another way. Leap-frogging is therefore justified. As evident from the deliberation process and the judgment made by the Chief Justice of the CFA on other cases, great importance has been attached to the problems of legal principle raised in interlocutory appeals, and subsequently filtered and consolidated by Judges of the

Court of Appeal. Final judgment will be made on that basis. Therefore, the CFA will not support leap-frogging so easily. Today's proposed arrangement for cases, irrespective of their seriousness, to seek final judgments without going through the Court of Appeal has apparently violated the established principle of leap-frogging.

Deputy President, the third reason for my reservation is: What actual effect will this proposal bring about? One of the provisions concerning leap-frogging seeks to provide an additional reason for appeal under section 22(1)(c) of the Hong Kong Court of Final Appeal Ordinance, providing that a leave for appeal must be obtained from the CFA before any appeal for election petition can be lodged.

However, as some Bills Committee members had highlighted, the provision has not provided any rules at all. Even for civil appeal cases requiring leave for appeal, they have to be justified with two reasons. Firstly, the appeal must involve grounds, interests and implications of great general importance. Secondly, it must involve major principle of justice. Yet, the proposed new arrangement is completely silent on the relevant criteria. We cannot help asking what criteria the CFA will use to grant leave for appeal. Nonetheless, the Administration was silent in this regard.

There are two possibilities. Firstly, simply speaking, the appeal must involve great public importance in legal principle according to section 22(1)(c). Secondly, just as I have purported, the case must involve serious injustice, meaning that there are important reasons of injustice. If this is the case, then election petitions which mostly involve disputes over facts will definitely not comply with the abovementioned requirements. This is tantamount to requiring a person having no right of appeal to lodge an appeal to the CFA, because he will definitely not be granted the leave for appeal. What else can be done if this is not feasible? It is very likely that a completely open approach will be adopted, whereby the CFA might take into account the right to appeal vested in people under the Basic Law. If they are not granted the leave for appeal to the CFA, it is tantamount to depriving them of their right to appeal. In that case, does it mean that all cases will be granted leave for appeal so long as they are not vexatious?

Deputy President, if this is the case, all election petitions will not be granted leave for appeal to the CFA. This is the last thing that we wish to see.

And, if we look from another angle, there are uncertainties. It is still not known on what grounds the CFA will grant leave for appeal. The Administration had given a weird reply to the Bills Committee, saying that it did not want to impose any restrictions on the Chief Justice of the CFA, who was the executor of law. The fact that the Administration has formulated a policy without laying down the relevant principles, but requiring the Court to do it on their own is, in my opinion, unfair to the CFA.

Last of all, Deputy President, I have already raised the above concerns long before the Secretary briefed the Panel on the policy. However, no response has been given by the Administration so far. Neither has it revisited the case. During the deliberation of the Bills Committee, the Hong Kong Bar Association (Bar Association) had fully elaborated their stance and stated that this approach was inappropriate in principle. Yet, the Administration has yet to give any official response.

Views were also received from some organizations. Although not all of them shared the same view, many considered it good to be given a chance to lodge an appeal to the CFA. However, they are not aware that the rights vested in them under the Bill may be completely useless. Worse still, the proposal is undesirable to the entire judicial system. While the Administration was silent on the views expressed by the Bar Association, they stated in a letter to the latter that the Judiciary had been consulted and according to the English version of the letter, it "does not express objection" to the proposal. I am pretty offended by the remarks made by the Administration. Does the Government's policy proposal have anything to do with the Judiciary? Why did it have to express agreement or disagreement? The Judiciary will definitely not express objection, but it seems that the Administration has interpreted this as a notice of no objection and thus queried why people would object when the Judiciary has not expressed disagreement. I really consider this extremely inappropriate.

Deputy President, on account of the above reasons and the fact that the Government's proposal has not taken into account professional advice and the relevant principles, but merely seeks to expeditiously transfer all appeal cases to the CFA, I do not consider this a solution. Thank you, Deputy President.

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

MS AUDREY EU (in Cantonese): Deputy President, regarding the Electoral Legislation (Miscellaneous Amendments) Bill 2011 (the Bill), the Bills Committee concerned had held a total of six meetings between 17 May and 13 June. A total of 27 individuals and deputations attended the meeting held on 4 June to express their views. Besides, as Dr Margaret NG has said, although the Hong Kong Bar Association (Bar Association) was not represented at the meeting, a submission was given. Some members of the public have also submitted written submissions.

Deputy President, why do I have to highlight the above information? This is because while many people might consider this legislation on miscellaneous amendments pretty piecemeal, the Bills Committee had held a number of meetings and invited deputations and stakeholders to attend our meetings. I highlighted the above information because the Bill was in stark contrast to the bill concerning the replacement mechanism (which is an amendment to the Legislative Council Ordinance) under discussion recently. That bill seeks to deprive people of their right to vote. Nonetheless, the relevant bills committee has held fewer meetings and has not invited any deputations or members of the public to its meetings.

I also wish to recap a small episode of the Bill to put it on record. Deputy President, I am a member of the Bills Committee. Soon after a meeting was convened, some members from the pro-establishment camp suggested to include the replacement mechanism proposed by the Government (the bill had yet to be drafted back then) into the Bill as it is also concerned with the election of the Legislative Council. Hence, amendments should be made in parallel. At that time, Secretary Stephen LAM said that he only intended to receive views and he welcomed members' views. Members from the pro-establishment camp who attended the Bills Committee meeting were certainly elated and they voiced their views enthusiastically, thinking that the replacement mechanism could be included into the Bill.

I just want to tell Members, it was clearly stated in the long title of the Bill, as well as during the Second Reading debate that the Bill seeks to, *inter alia*, deal with election petitions and provides for the so-called leap-frogging mechanism,

under which appeals will jump from the Court of First Instance (CFI) to the Court of Final Appeal (CFA). Besides, the Bill also deals with free postage and the provision of financial assistance to candidates. They are, generally speaking, issues of a pretty technical nature. Apart from the leap-frogging mechanism mentioned by Dr Margaret NG in her earlier speech, other amendments are also technical in nature. And yet, members from the pro-establishment camp had proposed to include into the Bill a replacement mechanism which seeks to deprive people of their right to vote in by-election. Although the majority of Bills Committee members supported the proposed inclusion of the replacement mechanism, the Legal Adviser reminded us that the mechanism was not covered by the long title of the Bill and therefore it should not be included.

Deputy President, having said that, some time later, when the Government mentioned the bill concerning the replacement mechanism at the Bills Committee meeting, someone put forward an even weirder proposal: Given that the other bill was also concerned with election, we could simply include it into the Bill and considered the proposals in parallel. Deputy President, Secretary Stephen LAM again said that he would listen to views on the proposal. The outcome was of course the same. Since most of the members of the Bills Committee are members from the pro-establishment camp, they suggested to accept the mainstream view and dealt with the replacement mechanism in parallel with the Bill.

Fortunately, at a House Committee meeting — Deputy President, it was chaired by you at that time — after a heated debate on the issue, Members agreed to set up another bills committee to deal with the issues arising from the replacement mechanism in the end. This was considered more desirable and efficient as certain provisions of the Bill have yet to be properly dealt with. If we have to properly deal with all those provisions first before moving on to the replacement mechanism, it would be too complicated procedure-wise and might slow down the entire process. Therefore, in the end, the replacement mechanism was not included into the Bill. I consider it necessary to recap this part of the history.

Deputy President, the Bill also deals with the election expenses limit. Since the number of Legislative Council seats returned from direct election will increase in 2010, so will the number of electors. What is more, taking into consideration the factor of inflation, the election expenses of certain

constituencies with direct elections will also increase accordingly. On the other hand, the election expenses limit for the Chief Executive Election has increased from \$9.5 million to \$13 million. The Government explained that this is attributable to an aggregate increase of the Composite Consumer Price Index (CCPI) of 12.8% between 2000 and 2012. Although the present increase (from \$9.5 million to \$13 million) has exceeded that of the CCPI, the Government advised that the Election Committee will expand from 800 members to 1 200 members. In addition, the Administration has drawn up from previous experiences that there would probably be additional election expenses. Moreover, with a change in the Chief Executive Election, which requires that candidates must secure more than 600 valid votes before they can be elected, it is believed that electioneering activities among candidates will intensify.

However, Deputy President, I wish to make a comparison here. Five new functional constituency (FC) seats, the so-called super District Council (DC) seats, will be added in the Legislative Council. They are territory-wide but not geographical constituency (GC) seats, and the elected members will be accountable to some 3 million electors. Deputy President, what will be the election expenses limit for this election? It is \$6 million. By making a comparison, Members may notice that for these so-called super DC seats, which have to face electors territory-wide, the election expenses limit is only \$6 million. Even if we add up the total election expenses of the five relevant GCs, the sum is only \$7 million to \$8 million. However, in the Chief Executive Election where the candidates are only required to face 1 200 members of the Election Committee, the election expenses limit is as high as \$13 million.

Why will the election expenses be so large? Deputy President, I want to read out the Government's projection for Members' comparison. The Government said that the expenses in promotion and publicity will be \$4.38 million. The employment of staff will incur \$3.17 million, which include one senior staff receiving of a monthly salary of \$50,000 and four general staff receiving a monthly salary of \$8,000. The establishment of an election office will incur \$1.89 million, the engagement of consultants will incur \$1.86 million and the policy study will cost \$1.86 million. I think Hong Kong people should know that members of the public are often placed in a pretty low priority when the Government considers these issues. While candidates of the Chief Executive Election can spend lavishly in electioneering activities to solicit the support of the rich and powerful, candidates of the Legislative Council election only need to

face the general public. This shows that the Government has taken people's right to know and right to vote very lightly on the one hand, but has shown special care to members of the Election Committee who select the Chief Executive. They can receive extraordinary treatment.

Deputy President, I also wish to talk about another part of the Bill which proposes an increase in financial assistance. For instance, while the amount of maximum financial assistance for DC election has increased from \$10 to \$12 per vote, the maximum is capped at 50% of the declared election expenses. Although after making adjustment to inflation, the election expenses limit has increased from \$48,000 to \$53,800, 50% of the limit is only \$26,900. When this amount is further divided by \$12, it means that each candidate must obtain 2 241 votes in order to get full subsidy. However, let us look back at the DC election in 2007 which had a total of 907 candidates in 405 constituencies. Except for the 41 candidates who returned uncontested, only 108 candidates (about 10%) could secure 2 241 votes, which is a very small percentage. In other words, nearly 90% of the candidates failed to obtain the maximum subsidy amount as claimed by the Government. As usual, the figures provided by the Government appear to be very attractive, indicating that there will be an increase in financial assistance and subsidy amount. However, the fact is that the candidates can never obtain the maximum subsidy amount. Members from different political parties and groupings have expressed similar views in this Council, saying that the Government always expresses the desire to have democratic development in Hong Kong, but it has done nothing to nurture and support political parties, nor introduce any relevant policies.

Deputy President, as Dr Margaret NG has spoken in great detail about election petitions in her earlier speech, I am not going to repeat. I just want to highlight that under the existing law, the threshold for lodging appeal to the CFA is indeed very high. Leave for appeal will only be granted if the case involves a point of law of significant public importance or great general public interests. Nonetheless, they are not included in the present threshold for election petition. At the Bills Committee meeting, I had asked if there were any criteria or threshold. The Government simply replied in the negative, and said that the threshold was pretty open. Sometimes, ambiguities on these issues can cause serious problems. I put a question in this regard, but no clear answer had been given. On what grounds will an election petition lodged to the CFA be granted leave for appeal in the future? When Dr Margaret NG spoke earlier, she also

highlighted elections for village representatives, which often involve disputes that cannot be settled by law. It is therefore extremely inappropriate to leave the door wide open such that even such disputes have to be dealt with by the CFA. Nonetheless, if the criteria are too strict or the thresholds are too high, this would render the power of final adjudication meaningless and therefore deprive candidates of their rights to lodge appeals to the CFA.

Deputy President, considering these factors and those mentioned by Dr Margaret NG just now, the Civic Party has great reservation about the relevant amendments proposed by the Government. Nonetheless, the Bill does have its merits. For instance, in respect of omission of information, the Government finally listened to our views ("our" means Legislative Council Members in general) and allowed some relaxations. In the past, there were often minor technical problems which resulted in a shortfall of a few cents or dollars, and candidates were required to seek an order from the Court to grant relief. At present, exemption will be granted for shortfalls ranging from \$200 to \$5,000, depending on the level of elections. So long as the shortfall does not exceed the prescribed limit, the candidates concerned are not required to seek an order from the Court to grant relief. This is one of the relaxed requirements.

Another relaxed requirement that is welcomed by the Civic Party is about an issue which I had relayed to the Secretary — many regulations governing the distribution of election posters to the homes of electors are outdated and not environmental-friendly at all. The Government has therefore made some revisions to enable candidates of the 2012 DC (second) FC and GC direct elections to send joint promotional leaflets to the homes of electors. This is an improvement. However, Deputy President, there are still many regulations on election posters which are not environmental-friendly. We will continue to pursue and hope that the Government will listen to more views so that our elections can be more environmental-friendly, efficient and convenient. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I move the Second Reading of the Electoral Legislation (Miscellaneous Amendments) Bill 2011 (the Bill). The SAR Government tabled the Bill at the Legislative Council for scrutiny on 29 April 2011. The Bills Committee has completed the deliberation of the Bill. I am sincerely grateful to Mr TAM Yiu-chung, Chairman of the Bills Committee; Mr Jeffrey LAM, Deputy Chairman of the Bills Committee and other members for their hard work and very precious views.

The proposals of the Bill cover the following areas:

- (a) To institute a leap-frog appeal mechanism, which is similar to the one contained in the Chief Executive Election, for election petitions arising from the Legislative Council, District Council (DC) and village representative elections. According to the proposal, an appeal against the decision of the Court of First Instance (CFI) in relation to an election petition arising from a Legislative Council, DC, and Village Representative election (including a by-election) may be lodged to the Court of Final Appeal (CFA) direct.
- (b) Regarding the sending of promotional letters by candidates to electors free of postage, both the Bill and the Committee stage amendments (CSAs) subsequently proposed by the Administration to amend the Bill allow candidates to send promotional letters to the same elector or voter free of postage under the following four situations:

First, a list of candidates in a Legislative Council geographical constituency (GC) and a list or lists of candidates of the same constituency;

Second, a list or lists of candidates in a Legislative Council GC and a list of candidates in the DC (second) functional constituency (FC);

Third, candidates in the Legislative Council Labour FC which has three seats; and

Fourth, candidates standing for election in the same Election Committee subsector which has multiple number of seats.

This is the second major amendments proposed in the Bill.

- (c) For the Chief Executive Election, the Bill proposes to increase the election expenses limit from \$9.5 million (which has been applicable since 2001) to \$13 million.
- (d) For the DC election, the Bill proposes that the subsidy rate of the financial assistance scheme for candidates will be revised from the lower of \$10 per vote or 50% of the declared election expenses to the lower of \$12 per vote or 50% of the election expenses limit, provided that the subsidy amount does not exceed the amount of the declared election expenses of the candidates.
- (e) The Bill also proposes to increase the election expenses limit of DC election from \$48,000 to \$53,800.

Deputy President, after listening to views expressed by Members in the Bills Committee and the Panel on Constitutional Affairs, we have proposed some amendments to the Bill. I will propose the relevant amendments at the Committee stage later. Now, I will briefly describe a number of more important amendments.

First of all, we propose to extend the appeal period for lodging election petition against the determination of the petition by the CFI from seven working days to 14 working days. We also propose a number of technical amendments, for instance, to clearly specify that at the end of trial of an election petition, the CFI must announce its determination by means of a written judgment, and the proposed 14 working day period is to be counted from the date on which the written judgment is given.

Regarding the sending of promotional letters by candidates free of postage, I have already given a detailed description of the arrangement earlier. The

relevant amendments allow a list or lists of candidates in a Legislative Council GC and a list of candidates in the DC (second) FC to send promotional letters to an elector free of postage.

Furthermore, we also propose to amend the Elections (Corrupt and Illegal Conduct) Ordinance to include a de minimis arrangement into the provision concerning election returns with minor errors or omissions. According to this amendment, if the incorrectness or omissions in the amount of any election expense or donation requires an adjustment not exceeding the maximum amount prescribed for a candidate for a particular election, subject to other prescribed conditions, the candidates would be informed to rectify the errors or omissions in the election returns, thus saving the need to seek an order from the Court to grant relief.

Deputy President, a number of Members have expressed their views at today's meeting. First of all, Dr Margaret NG pointed out that when we lodge an election petition to the CFA, we should consider formulating more specific principles and considerations. Deputy President, we did examine these issues and finally decided that it was most appropriate to leave the decision for leap-frog appeals in the hands of the CFA. We do not want to impose unnecessary restrictions on the CFA's right to examine appeals as the relevant election laws have already laid down the basic principles for granting leave for appeal at the CFI. We are confident that the CFA will approve appeal cases on principles.

Ms Audrey EU has also expressed certain views in today's debate. Deputy President, technical amendments have actually been made to the Bill with regard to some hard facts of elections at various levels, such as election expenses limit, financial assistance and revision of the election returns. Ms Audrey EU highlighted again that Members from the pro-establishment camp had suggested the Administration to expeditiously enact the law which sought to plug the loopholes, or include it into the Bill so that the amendments could be examined by the same Bills Committee. Deputy President, I think it only reflects that a mainstream view has developed among Legislative Council Members from different political parties and groupings, urging the Administration to expeditiously plug the loophole. The Government, after listening to the views expressed by different political parties and groupings — which are actually cross-party views — has finally decided to deal with the issue with another amendment bill. Members had also decided, at a House Committee meeting, to

set up a new bills committee for this bill. This is an appropriate approach and is agreed by the SAR Government.

Ms Audrey EU has compared the proposed election expenses limit of \$13 million for the Chief Executive Election to the \$6 million election expenses limit of the new DC FC election (where the seats are returned territory-wide). I wish to point out that the proposal to cap the election expenses of those newly created DC FC seats at \$6 million was made after listening to the views expressed by different political parties last summer. It was basically the median figure and our calculation showed that this amount was practicable. The issue has also been discussed in this Chamber when the Legislative Council (Amendment) Bill 2010 was endorsed in early March. We are being pragmatic and the expenses limit was set after considering views from different parties. Regarding the proposed increase of the election expenses limit for the Chief Executive Election from \$9.5 million to \$13 million, there are actually a number of considerations. The expansion of the membership of the Election Committee from 800 to 1 200 will undoubtedly increase the need for candidates standing in the election to liaise with different parties to solicit their support.

(THE PRESIDENT resumed the Chair)

On the other hand, a more important consideration is that candidates standing in the Chief Executive Election must face the entire Hong Kong community. In order to do so, their election offices must be financially prepared in terms of manpower, publicity and public relations. This explains why we now propose to raise the election expenses limit, which has not been revised over the past decade, from \$9.5 million to \$13 million. We consider this approach pragmatic and appropriate as well.

President, I implore Members to support the Second Reading of the Bill and pass the amendments to be proposed by the Administration at the Committee stage later, such that the revised election arrangement can be put in place in the DC elections to be held in November 2011 and other elections to be held thereafter.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Electoral Legislation (Miscellaneous Amendments) Bill 2011 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Electoral Legislation (Miscellaneous Amendments) Bill 2011.

Council went into Committee.

Committee Stage

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

ELECTORAL LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2011

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Electoral Legislation (Miscellaneous Amendments) Bill.

CLERK (in Cantonese): Clauses 2, 3, 4, 6, 7, 10, 11, 13, 14, 17, 18, 20, 21, 24, 25, 26 and 28 to 39.

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 clauses stand part of the Bill. 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, 5, 8, 9, 12, 15, 16, 19, 22, 23 and 27.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, I move the amendments to the clauses read out just now.

First of all, we propose to amend clause 1(2) of the Bill by adding Part 6A, so that the de minimis arrangement for handling election returns with minor errors or omissions can come into effect on the date of gazettal of the Electoral Legislation (Miscellaneous Amendments) Bill 2011.

Chairman, in response to the views of the Bills Committee, we also propose to amend clause 5(3) of the Bill (that is, the proposed section 65(2) of the Legislative Council Ordinance) to extend the period within which an appeal

against the decision of the Court of First Instance (CFI) on an election petition must be lodged to the Court of Final Appeal (CFA) from seven working days to 14 working days. This provides the party aggrieved with the decision with more time to consider whether an appeal should be lodged and to make preparations in case an appeal is to be lodged.

Clauses 12(3) and 19(3) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Chairman, according to clause 6(1) of the Bill (that is, the proposed section 67(3)), the CFI must announce its determination by means of a written judgment at the end of trial of an election petition. And, according to clause 5(3) of the Bill (that is, the proposed section 65(2)), the proposed 14 working-day appeal period would count from the day on which the relevant CFI judgment is handed down. To enhance of the clarity of the relevant arrangement, we propose to amend clause 5(3) of the Bill by adding the word "written".

Clauses 12(3) and 19(3) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Chairman, in response to the advice given by the Legal Adviser of the Legislative Council Secretariat, we propose to amend the Chinese text of the heading of clause 8 of the Bill (that is, the proposed section 71 of the Legislative Council Ordinance) from "被裁定並非妥為當選並不令作為失效" to "某人被判非妥為當選，不令其在位作為失效" so as to enhance the clarity of the heading.

In the proposed section 71 of the Legislative Council Ordinance, we propose to delete "of the determination" and replace it with "on which the written judgment of the Court or the Court of Final Appeal, as the case may be, is handed down", so as to tie in with the amendment to clause 5, where the word "written" has been added, as well as enhance the clarity of the relevant arrangement.

Clauses 15 and 22 amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Chairman, the existing section 72(1) of the Legislative Council Ordinance provides that, if, on the hearing of an election petition, the CFI determined that the person who had been announced the elected member was not duly elected, he could no longer act as a Member. Since clause 7 of the Bill (that is, the proposed section 70A of the Legislative Council Ordinance) provides that the CFI's determination is suspended before the appeal period, we therefore propose a technical amendment to clause 9(1) of the Bill (that is, the proposed section 72(1)(a) of the Legislative Council Ordinance) to clearly provide that an incumbent Member who was determined by the CFI as not duly elected could still act as a Member until the expiry of the filing period for an appeal.

We also propose to amend clause 9(1) of the Bill (that is, the proposed section 72(1)(b) of the Legislative Council Ordinance) by replacing "of the determination" with "on which the written judgment of the Court is handed down", so as to enhance the clarity of the relevant arrangement. We have elaborated on this amendment when the amendment to clause 5 of the Bill was introduced earlier.

Clauses 16(1) and 23(1) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Chairman, clause 9(2) of the Bill (that is, the proposed section 72(1A) of the Legislative Council Ordinance) provides that when an elected Member who was determined by the CFI as not duly elected and lodged an appeal to the CFA, he could still act as a Member.

However, if the Member concerned subsequently withdraws the application or appeal, the CFI's determination in respect of the case shall stand and take effect and thus that Member would cease to be a Member when the appeal is withdrawn. In order to enhance the clarity of the relevant arrangement, we propose to add proposed section 72(5). Consequential to this new provision, we must also mention in clause 9(2) of the Bill (that is, the proposed section 72(1A) of the Legislative Council Ordinance) the proposed section 72(5).

Clauses 16(2) and 23(2) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Chairman, the existing section 72(2) of the Legislative Council Ordinance provides that, if, on the hearing of an election petition, the CFI determines that a person was duly elected as a Member in place of a person that the CFI has determined not to have been duly elected at the election, the first-mentioned person becomes a Member from the date of the determination.

This provision is drafted on the basis of the final determination made by the CFI on the election petition. Since this provision of final determination has been declared unconstitutional, we propose to replace it with a leap-frog appeal mechanism. Hence, the effect of section 72(2) of the Legislative Council Ordinance will be subject to the following two provisions:

- (a) Clause 7 of the Bill (that is, the proposed section 70A) of the Legislative Council Ordinance), which provides that the effect of CFI's determination in respect of an election petition is suspended until the expiry of the filing period for an appeal; and
- (b) Clause 9(2) of the Bill (that is, proposed section 72(1A) of the Legislative Council Ordinance), which provides that when an incumbent Member who was determined by the CFI as not duly elected and lodged an appeal to CFA, he could still act as a Member.

Therefore, we propose to add clause 9(2A) to the Bill to implement the abovementioned arrangement.

Clause 16 (the addition of subclause (2A)) and clause 23 (the addition of subclause (2A)) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Chairman, according to clause 6(1) of the Bill (that is, the proposed section 67(3) of the Legislative Council Ordinance), the CFI must announce its determination by means of a written judgment at the end of trial of an election petition. In order to enhance the clarity of the relevant arrangement, we propose to amend existing section 72(2) of the Legislative Council Ordinance by replacing "of the determination" with "on which the written judgment of the Court is handed down". According to the amended section 72(2) of the Legislative Council Ordinance, if the CFI determines that a person is duly elected

to replace another person who was determined by the CFI to be not duly elected, then the former (subject to subclause (1A) and section 70A) would become a Member from the day on which the written judgment of the CFI is handed down.

Clause 16 (the addition of subclause (2B)) and clause 23 (the addition of subclause (2B)) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Meanwhile, we also propose to replace "of the determination of the Court of Final Appeal" in clause 9(3) of the Bill (that is, the proposed section 72(3)(b) of the Legislative Council Ordinance) with "on which the written judgment of the Court of Final Appeal is handed down".

As I have elaborated when introducing the amendment to clause 9 of the Bill (the addition of subclause (2B)), this amendment would enhance the clarity of relevant arrangement.

Clauses 16(3) and 23(3) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

Chairman, clause 9(2) of the Bill (that is, the proposed section 72(1A) of the Legislative Council Ordinance) provides that when an elected Member who was determined by the CFI as not duly elected and lodged an appeal to CFA, he could still act as a Member.

As I have explained when introducing the amendment to clause 9(2) of the Bill, if the Member concerned subsequently withdraws the application or appeal, the CFI's determination in respect of the case shall stand and take effect and thus that Member would cease to be a Member when the appeal is withdrawn.

Therefore, we propose to add the proposed section 72(5) to specify the relevant arrangement.

Clauses 16(3) and 23(3) amend the corresponding provisions in the District Councils Ordinance and the Village Representative Election Ordinance.

During the resumption of the Second Reading debate, I have explained that to facilitate candidates' electioneering activities and step up publicity, we propose

to amend clause 27 of the Bill to amend proposed sections 43(4A), (4B) and (4D) of the Legislative Council Ordinance by adding the following arrangements with respect to the sending promotional letters by candidates free of postage:

Firstly, a letter sent by or on behalf of a list of candidates which is validly nominated for a geographical constituency (GC) may contain information on any other list/lists of candidates validly nominated for that GC, and one single list of candidates which is validly nominated for the District Council (DC) (second) functional constituency (FC); and

Secondly, a letter sent by or on behalf of a list of candidates which is validly nominated for the DC (second) FC may contain information on any list/lists of candidates validly nominated for one single GC.

We have briefed the Bills Committee on the relevant amendments, and members of the Bills Committee generally support our proposals. I implore Members to support these amendments.

Proposed amendments

Clause 1 (see Annex I)

Clause 5 (see Annex I)

Clause 8 (see Annex I)

Clause 9 (see Annex I)

Clause 12 (see Annex I)

Clause 15 (see Annex I)

Clause 16 (see Annex I)

Clause 19 (see Annex I)

Clause 22 (see Annex I)

Clause 23 (see Annex I)

Clause 27 (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 Constitutional and Mainland Affairs 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.

CLERK (in Cantonese): Clauses 1, 5, 8, 9, 12, 15, 16, 19, 22, 23 and 27 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses as amended read out just now stand part of the Bill. 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 2A	Section 36 amended (By-election to be held to fill vacancy in membership of Legislative Council)
New clause 2B	Section 48 amended (who is entitled to vote at an election)
New clause 4A	Section 60A amended (Interpretation: Part VIA)
New clause 9A	Section 26 amended (When elected member's office becomes vacant)
New clause 9B	Section 29 amended (Who is entitled to vote at an election)
New clause 16A	Section 60A amended (Interpretation: Part VA)
New clause 16B	Section 13 amended (Who is entitled to vote at an election)
New Part heading before new clause 37A	Part 6A Amendments Relating to Minor Errors, and so on, in Election Return

New Division heading before new clause 37A	Division 1 Enactments Amended
New clause 37A	Enactments Amended
New Division heading before new clause 37B	Division 2 Amendments to Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)
New clause 37B	Section 20 amended (Corrupt conduct to lodge false or misleading election return)
New clause 37C	Section 37A added
New clause 37D	Section 41 amended (Appropriate authority to keep election returns)
New clause 37E	Schedule added
New Division heading before new clause 37F	Division 3 Amendment to Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B)
New clause 37F	Schedule 1 amended (Provisions Excluded from application of section 5 of Ordinance).

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, I move the Second Reading of new clauses, the new Part heading and the new Division headings read out just now.

First of all, since the proposed leap-frog appeal mechanism allows the party aggrieved with the determination made by the Court of First Instance (CFI) on an election petition to lodge an appeal to the Court of Final Appeal (CFA) direct after obtaining a leave to appeal, relevant provisions in the Legislative Council Ordinance, District Councils Ordinance and Village Representative Election Ordinance which refer to the CFI's determination must also take into account and/or make reference to the appeals or determination of the CFA.

We therefore propose a consequential amendment to section 36(1)(d) of the Legislative Council Ordinance. The provision now states that if the CFI makes a determination under section 67 of the Legislative Council Ordinance that a person whose election is questioned was not duly elected and that no other person was duly elected instead, the Electoral Affairs Commission (EAC) must arrange for a by-election to be held. Following the introduction of the leap-frog appeal mechanism, section 36(1)(d) will be subject to proposed sections 70A (which provides that CFI's determination of an election petition is suspended until the expiry of the filing period for an appeal) and 72(1A) (which provides that if an elected Member is determined as not duly elected and lodged an appeal to the CFA, he could still act as a Member).

We also propose an amendment to add section 36(1)(e). This provision seeks to provide that if an appeal against CFI's determination is lodged to the CFA, which then determined under clause 7 of the Electoral Legislation (Miscellaneous Amendments) Bill 2011 (the Bill) (that is, proposed section 70B of the Legislative Council Ordinance) that a person whose election is questioned was not duly elected and that no other person was duly elected instead, or on the termination of the appeal proceedings in other circumstances, the EAC must arrange for a by-election to be held.

Due to the introduction of the leap-frog appeal mechanism, consequential amendments were made to section 48(7)(a) concerning "Who is entitled to vote at an election", and paragraph (a) of the definition of "elected as a Member" under section 60A(1).

Similarly, we also propose clauses 9A, 9B and 16A to amend similar provisions in the District Councils Ordinance (namely, sections 26(d), 29(7)(a) and paragraph (a) of the definition of "elected as a Member" under 60A(1) of the District Councils Ordinance).

We also propose clause 16B to make consequential amendments to section 13(3)(a) of the Village Representative Election Ordinance.

Besides, we also propose to add clauses 37A, 37B and 37C to the Bill to implement a de minimis arrangement for handling election returns with minor errors or omissions.

This amendment is made in response to the concern of Legislative Council Members, who considered that investigation of election returns with minor errors or omissions under the Elections (Corrupt and Illegal Conduct) Ordinance had used up many of the resources that the Independent Commission Against Corruption could have used to deal with more important and serious offences in other areas. Besides, candidates who were involved had to face considerable uncertainty as a result of ICAC's investigation in such cases, and some of them had to incur a fairly large amount of legal costs to seek an order from the CFI to grant relief. Worse still, the existing arrangement has increased the burden of the Department of Justice and the Judiciary.

To address the abovementioned problem, and in view of the fact that more people will be standing for the elections in Hong Kong, we propose to handle minor errors or omissions in relation to election expenses in election returns in a simplified way under a de minimis arrangement.

The newly added clause 37C of the Bill amends the Elections (Corrupt and Illegal Conduct) Ordinance by adding section 37A, providing that the de minimis arrangement for handling minor errors or omissions applies to any error or false statement in relation to election expenses and donations in an election return lodged by a candidate. The value of error or false statements involved should not exceed the limit prescribed for the relevant election.

According to the new section 37A, a candidate may lodge with the appropriate authority a copy of the election return which is marked with the

necessary revision to have the error or false statement corrected, subject to the following conditions:

- the aggregate value of election expenses incurred by the candidate should not exceed the maximum amount of election expenses prescribed for that particular election; and
- the copy of election return lodged by a candidate must comply with the following conditions:
 - (i) it is lodged within 30 days after the date on which the candidate receives a notice from the appropriate authority relating to the errors or false statements in the election returns;
 - (ii) the copy must be accompanied by, as the situation requires, (in the case of an election expense) an invoice and a receipt; or (in the case of an election donation) a copy of a receipt or an explanation; and
 - (iii) the copy must be accompanied by a declaration verifying its contents.

Based on the statistics on previous elections, the proposed de minimis arrangement for handling election returns with minor errors or omissions should be able to cover most of the cases possibly related to election expenses.

The newly added clause 37B of the Bill amends section 20 of the Elections (Corrupt and Illegal Conduct) Ordinance, providing that it is a corrupt conduct for a person to make an error or false statement in a copy of an election return that he knows or ought to know is materially false or misleading.

The newly added clause 37D of the Bill amends section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance to make consequential amendments of technical nature, providing that election returns should be kept by the appropriate authority.

The newly added clause 37E has added a Schedule to provide for the prescribed limit for the implementation of the abovementioned new arrangement.

The newly added clause 37F of the Bill amends the Electronic Transactions (Exclusion) Order to the effect that hardcopies of election returns lodged by candidates must be submitted pursuant to new sections 37A(4) and 37A(6).

The abovementioned amendments have been introduced on 13 June, and the Bills Committee had not expressed any opposite views to these amendments.

Chairman, I so submit.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 2A, 2B, 4A, 9A, 9B, 16A and 16B, the new Part heading before new clause 37A, the new Division heading before new clause 37A, new clause 37A, the new Division heading before new clause 37B, new clauses 37B, 37C, 37D and 37E, the new Division heading before new clause 37F and new clause 37F be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clauses 2A, 2B, 4A, 9A, 9B, 16A and 16B, the new Part heading before new clause 37A, the new Division heading before new clause 37A, new clause 37A, the new Division heading before new clause 37B, new clauses 37B, 37C, 37D and 37E, the new Division heading before new clause 37F and new clause 37F.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, I move that the new clauses, the new Part heading and the new Division headings read out just now be added to the Bill.

Proposed additions

New Clause 2A (see Annex I)

New Clause 2B (see Annex I)

New Clause 4A (see Annex I)

New Clause 9A (see Annex I)

New Clause 9B (see Annex I)

New Clause 16A (see Annex I)

New Clause 16B (see Annex I)

New Part heading before new clause 37A (see Annex I)

New Division heading before new clause 37A (see Annex I)

New Clause 37A (see Annex I)

New Division heading before new clause 37B (see Annex I)

New Clause 37B (see Annex I)

New Clause 37C (see Annex I)

New Clause 37D (see Annex I)

New Clause 37E (see Annex I)

New Division heading before new clause 37F (see Annex I)

New Clause 37F (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses, the new Part heading and the new Division headings read out just now be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

**ELECTORAL LEGISLATION (MISCELLANEOUS AMENDMENTS)
BILL 2011**

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the

Electoral Legislation (Miscellaneous Amendments) Bill 2011

has passed through the Committee stage 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 Electoral Legislation (Miscellaneous Amendments) Bill 2011 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Electoral Legislation (Miscellaneous Amendments) Bill 2011.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Supplementary Appropriation (2010-2011) Bill.

SUPPLEMENTARY APPROPRIATION (2010-2011) BILL

Resumption of debate on Second Reading which was moved on 15 June 2011

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Supplementary Appropriation (2010-2011) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Supplementary Appropriation (2010-2011) Bill.

Council went into Committee.

Committee Stage

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

SUPPLEMENTARY APPROPRIATION (2010-2011) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Supplementary Appropriation (2010-2011) Bill.

CLERK (in Cantonese): Clauses 1 and 2.

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 clauses 1 and 2 stand part of the Bill. 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.

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 Schedule stand part of the Bill. 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.

SUPPLEMENTARY APPROPRIATION (2010-2011) BILL

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the

Supplementary Appropriation (2010-2011) Bill

has passed through the Committee stage without amendment. 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 Supplementary Appropriation (2010-2011) Bill be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Supplementary Appropriation (2010-2011) Bill.

MOTIONS

PRESIDENT (in Cantonese): Motions. Five proposed resolutions under the Interpretation and General Clauses Ordinance by the Secretary for Constitutional and Mainland Affairs.

PRESIDENT (in Cantonese): First motion seeks to amend the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011.

Second motion seeks to amend the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011.

Third motion seeks to amend the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011.

Fourth motion seeks to amend the Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011.

Fifth motion seeks to amend the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011.

PRESIDENT (in Cantonese): As the five Amendment Regulations covered by the five motions are made under the Electoral Affairs Commission Ordinance and all of them relate to electoral matters, this Council will have a joint debate on the five motions.

I will first call upon the Secretary to speak and move the first motion. After the debate, this Council will put to vote the first motion. Whether the first motion is passed or not will not affect the Secretary's moving of his other four motions.

PRESIDENT (in Cantonese): The joint debate will now begin.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I move that the first motion moved by me be passed. President, as you said that this Council will have a joint debate, my speech will cover all the five motions.

I move that five Amendment Regulations be amended as set out on the agenda. These Amendment Regulations are the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011, Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011, Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011, Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011 and Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011.

To prepare for the District Council (DC) Election, the Election Committee Subsector (ECSS) Elections, the Chief Executive Election and the Legislative Council Election to be held between November this year and September next year, the Electoral Affairs Commission (EAC) tabled at the Legislative Council nine Amendment Regulations concerning electoral arrangements on 18 May 2011. These Amendment Regulations are related to technical amendments. Apart from consequential amendments to be made according to the amended provisions in the Chief Executive Election Ordinance and the Legislative Council Ordinance, these Amendment Regulations seek to align and improve some electoral procedures, and to refine the voting arrangements for imprisoned persons.

The Legislative Council subsequently set up a Subcommittee to scrutinize the nine Amendment Regulations. After four meetings, the Subcommittee has completed the scrutiny work. I hereby wish to express my gratitude to Mr IP Kwok-him, Chairman of the Subcommittee, and other members for their effort in completing the exercise.

During the scrutiny of the Amendment Regulations, some members suggested extending, for DC election years, the annual cut-off date for registering

particulars relating to candidates on ballot papers, similar to the practice of voter registration. Having considered this suggestion carefully, we propose to amend the annual cut-off date for filing applications for registering the particulars relating to candidates on ballot papers to 15 June for the DC election years. By the time the Amendment Regulations come into effect on 8 July 2011, it will have passed the amended annual cut-off date for the 2011 registration cycle. Therefore, we propose to provide a transitional arrangement for 2011, so that the EAC will process those applications received on or before 15 July 2011 within the current registration cycle. For this, we need to amend the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011.

Another more important amendment is about the means of submission of copies of electronic election advertisements. At present, candidates must submit to the Returning Officer (RO) copies of all election advertisements. To facilitate candidates to conduct electioneering activities, the EAC has proposed that for electronic election advertisements, candidates are allowed to make the submission to the RO electronically. Some members considered that candidates should be provided with the flexibility to submit copies of electronic election advertisements either by electronic means or in hardcopies as the situation requires. We need to amend the provisions in four Amendment Regulations, so as to apply this amended arrangement to the Legislative Council, DC, the Chief Executive and ECSS elections.

Other amendments are technical in nature, with a view to improving the clarity of the provisions. The detailed amendments are set out on the agenda.

The Subcommittee supports the amendments I move. I hereby wish to thank Mr IP Kwok-him, Chairman of the Subcommittee, and other members for the invaluable views expressed during the process of scrutiny of the Amendment Regulations. Thank you, President.

The Secretary for Constitutional and Mainland Affairs moved the following motion:

"RESOLVED that the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 73 of 2011 and laid on the table of

the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011

1. Section 5 amended (Section 102 amended (Election advertisements))
 - (1) Section 5(1), Chinese text, new section 102(4A)(a) —
Repeal
"以其他方式使用"
Substitute
"作其他用途".
 - (2) Section 5(2), Chinese text, new section 102(5A) —
Repeal
"以其他方式使用"
Substitute
"作其他用途".
 - (3) Section 5(3) —
Repeal new section 102(6)
Substitute
"(6) A candidate must furnish to the Returning Officer —
 - (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means —
 - (i) in the manner and format specified by the Commission, an electronic copy of the advertisement —
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or

- (ii) 2 hard copies of the advertisement —
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;
 - (b) in the case of any other election advertisement, subject to subsection (7), 2 copies of the advertisement before displaying, distributing or otherwise using it."

- 2. Section 30 amended (Section 35 amended (Chief Electoral Officer to supply candidates with copy of final register))
Section 30(2), Chinese text, after "在" —
Add
"某".

- 3. Section 42 amended (Schedule 3 amended (Forms of ballot papers for a general election/by-election))
Section 42, English text —
Repeal subsection (1)
Substitute
"(1) Schedule 3, Form 1, note @ —
Repeal
"a' and up to 'h"
Substitute
"a" and up to "i"."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed.

MR IP KWOK-HIM (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Nine Amendment Regulations made under the Electoral

Affairs Commission Ordinance (the Subcommittee), I now report on the deliberations of the Subcommittee.

The Subcommittee has held four meetings to scrutinize in detail the nine Amendment Regulations made by the Electoral Affairs Commission (EAC) for the purpose of preparing for the 2011 District Council (DC) Election, 2011 Election Committee (EC) Subsector Elections, 2012 Chief Executive Election and 2012 Legislative Council Election to be held during the period from November 2011 to September 2012.

The deliberation of the Subcommittee mainly concentrates on the EAC's proposal to allow the candidates of these four elections to submit electronic election advertisements (eEAs) and the required declaration to Returning Officers (ROs) electronically, in the manner and format as specified by the EAC. While members supported the improvements proposed by the EAC to allow the candidates to submit eEAs and the required declaration to ROs electronically, they expressed disappointment that the same improvement was not applicable to printed EAs. In this connection, the Registration and Electoral Office (REO) undertook that it would capitalize on the experience in the 2011 DC and EC subsector elections and explore the feasibility of accepting more types of election materials by electronic means.

Members also expressed concern about the difficulties encountered by candidates in fulfilling the existing statutory declaration requirement to submit to ROs copies of eEAs distributed, sent or used on social networking or communication websites on the Internet. The Administration advised that to address members' concern, it was necessary to review whether eEAs should be treated in a manner different from physical-form EAs and, if so, whether amendments should be made to the relevant provisions of the Elections (Corrupt and Illegal Conduct) Ordinance and EAC Regulations. The Administration undertook to study the issue separately and revert to the Panel on Constitutional Affairs in due course.

President, in the course of deliberation on the Amendment Regulations, the view was expressed that according to the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation, candidates for the Legislative Council and DC elections might request to have certain particulars printed on the ballot papers, including the names and emblems of

prescribed bodies, as well as the personal emblems and photographs of candidates. The existing annual cut-off date was made on the basis that a Legislative Council election is usually held in September of a year. Given that a DC election is usually held in November of a year, political parties or other candidates may need more time to prepare for making arrangements, including the adoption of emblems and other particulars, in the run-up to the election. Hence, for the DC election years, a later deadline should be provided for political parties and potential candidates to apply for registering their particulars on ballot papers. Members generally supported this proposal.

Taking on board members' view, the Administration agreed to amend the annual cut-off date for filing applications for registering the particulars relating to candidates on ballot papers to 15 June for the DC election years (instead of the current cut-off date of 15 April). Moreover, in order to facilitate political parties and candidates preparing for the coming DC elections in 2011, the deadline this year would be extended to 15 July.

In addition, technical amendments will be proposed by the Administration to the four Amendment Regulations relating to electoral procedures.

President, the Subcommittee supports the motions proposed by the Secretary for Constitutional and Mainland Affairs for amending these Regulations. Now, I am going to speak on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to express support for the above Amendment Regulations.

Counting from the upcoming elections for the Fourth Term DC in November to the Legislative Council election in next September, four major elections will be held one after another within a short span of 11 months. I think the holding of four elections in one year is a rare occurrence "once in 60 years". These four elections play a pivotal and significant role in the future constitutional development of Hong Kong.

Regarding the electoral process, how to ensure the election will be held in a fair, just and open manner is of critical importance. Detailed arrangements of the electoral process are vital in ensuring that candidates and their teams can campaign under a "friendly policy" which allows the smooth conduct of elections. With the rapid development of advancing technologies, we must ensure their

timely and suitable application to facilitate elections. Hence, the EAC's proposal to allow candidates to submit eEAs and the required declaration electronically in the manner and format as specified is commendable, and it fully reflects that the EAC has kept up with technical and technological development. However, it is indeed disappointing that the new proposal is not also applicable to printed EAs. The situation is like a man who has taken a step forward with his left foot, yet his right foot stays put. As different standards apply, it can easily cause confusion to the candidates. Of course, we are glad to know that the Government has accepted our views and will conduct relevant tests on a trial basis. The Administration also stated that it had not precluded the possibility that after review, it would actively consider allowing candidates to submit various kinds of election materials electronically.

Moreover, in the long run, taking into account different elections to be held in future, the Government should review the matter thoroughly and consider whether eEAs should be treated in a manner different from physical-form EAs and, if so, whether amendments should be made to the relevant provisions of the Elections (Corrupt and Illegal Conduct) Ordinance and EAC Regulations. In conclusion, the Government and the EAC should draw up clear guidelines for candidates before the upcoming 2011 DC Election. Major publicity on the relevant statutory requirements should be launched to ensure that candidates are conversant with the revised or new electoral regulations so that they will not be caught inadvertently. The DAB considers that the Government should put in more efforts in this regard.

President, another issue has been raised and discussed by the Subcommittee. Whenever an election is to be held, some electors are only aware of the removal of their names from the final register without apparent reasons on the polling day. Although the Government has explained repeatedly to the Subcommittee that the removal of an elector's name would have to go through a rigorous vetting process, the same situation invariably happens for each election (irrespective of whether it is a DC or Legislative Council election). This is not a new question which pops up suddenly; this is nothing but an old problem. The DAB considers that the Government and the REO should deal with it seriously, and adopt practical measures to avoid the situation where an elector only finds out at the polling station that he has, for no apparent reasons, lost the right to vote. We also hope that the Government will devise user-friendly measures for electors to check their status so that the latest position

of the electoral register can be reflected accurately and that electors can exercise their rightful voting right in each and every election.

With these remarks, President, I support the nine Amendment Regulations on behalf of the DAB. Thank you, President.

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

(No Member indicated a wish to speak)

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I would only give a further reply on one point briefly. In fact, the Registration and Electoral Office hopes that the District Council (DC) election in 2011 can provide an opportunity for trial. Our long-term objective is indeed to improve the manner of submission of all election advertisements so as to facilitate the conduct of campaigning activities by candidates. We hope that upon successful completion of the upcoming DC election this year, we will capitalize on the experience and adopt proper arrangements for major elections in future.

MS MIRIAM LAU (in Cantonese): President, sorry, I would like to speak on the Amendment Regulation in the fifth motion proposed by Secretary Stephen LAM. The fifth motion seeks to amend the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (the Regulation). As Secretary Stephen LAM just said, some members had raised their views on the Regulation at meetings of the Subcommittee. I am one of those members he mentioned.

I was not a member of the Subcommittee, but I attended that particular meeting of the Subcommittee on that day. The story goes like this. As Members may recall, the Liberal Party adopted a new logo sometime around end-March to early April. According to the Regulation, relevant bodies should apply to the Electoral Affairs Commission (EAC) for registering particulars including the emblem, name, abbreviations, and so on. A cut-off date for such

declaration or applications for registration is provided under the Regulation, and registration must be completed before 15 April.

Around the end of May, colleagues of the Liberal Party reported to me that due to their oversight, the application for registration had not been filed before the cut-off date of 15 April. Of course, I went through the relevant legislation immediately and noted that it had indeed been specified in law that applications should be made before 15 April. I then studied the legislation further in a bid to resolving our problem on hand. Upon examining the rationale for adopting the cut-off date of 15 April in the Regulation, I noted that it was because the EAC must get hold of the emblem or relevant particulars of all political or non-political bodies well ahead of the election. When the Regulation was amended in 2004, the Government adopted the date of 15 April on the basis that the Legislative Council election was held in early September of that year. By adopting this cut-off date, the EAC would have four months to get hold of the relevant particulars and conduct vetting.

However, if it is not a year of Legislative Council election, say for District Council (DC) election years, does the EAC need such a long time for vetting? If an election is held in November, there will be an intervening period of about half year, or six to seven months, from the cut-off date of 15 April to November. Does the EAC need such a long time to vet these rather uncomplicated particulars such as the logos, emblems and names of political parties?

I also doubt whether political groupings or bodies would be deterred from participating in the election if applications for registering these particulars must be made so many months ahead. As the deadline is six months before the election, candidates can no longer apply for registering the emblems, names, and so on, of their affiliated parties or bodies. This could in fact create inconvenience for persons who suddenly decide to run for the election with short notice. As I see it, electoral laws must not only be fair and impartial, it must also serve to facilitate the candidates and encourage the participation of more persons or bodies in elections.

Hence, I attended the meeting of the Subcommittee to present my observations and views to the Chairman and members of the Subcommittee. I was very glad that my views were endorsed by members present at that meeting. They also considered that such an early deadline, that is, 15 April, might not be

necessary and the Administration should examine whether the deadline could be slightly postponed to rationalize the entire system. I thank the Bureau for its positive response to my views, and of course, members of the Subcommittee for their support. As a result, the Secretary has proposed the relevant amendments to the Regulation (Cap. 541M) today.

I must admit that this amendment will benefit the Liberal Party because we can submit our application for registering the Party's logo again to the EAC as a result of the amendment. Hence, in all fairness, two Members of the Liberal Party and I myself will leave the Chamber during the voting on this motion. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Constitutional and Mainland Affairs, do you want to speak again?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, allow me to make another brief response.

First of all, as a matter of fact, the current arrangement of printing the logos of political parties or photographs of candidates on ballot papers was proposed by me on my own initiative at the time of the 2004 Legislative Council election.

Under the proposed arrangements at that time, about four months should be set aside for completion of a series of procedures after the deadline for submitting applications, which included the Electoral Affairs Commission (EAC)'s decision on the applications, the lodging of appeals by applicants if necessary, and so on. We need to complete these procedures before the election date.

Back then, the deadline was decided on the basis of the date of the Legislative Council election. At that time, suggestion was made by other Members as to whether this arrangement should also apply to District Council (DC) elections. I remember my reply then was that the arrangement would first

be implemented for Legislative Council election, and then to DC elections at a later stage. Subsequently, the arrangement was implemented for the ensuing DC elections.

At that time, Ms Miriam LAU wrote to the Chairman of the EAC and me, stating the view that, let us not talk about the registration of particulars such as the logos of political parties and discuss the deadlines for voter registration in election years, she pointed out that different deadlines should be adopted for DC election year and Legislative Council election year. The deadline for voter registration in Legislative Council election years and other ordinary years is about two months earlier than that for DC election year.

Regarding this difference of two months, if my memory serves me right, it was proposed by Mr IP Kwok-him on the consideration that the date of DC elections was generally about two months after that of Legislative Council election.

Hence, I welcome Ms Miriam LAU's proposal. Through the deliberation of Members, such an important detail in electoral arrangements has been rationalized. For Members or candidates who have affiliations with different political parties, groupings or bodies, or who are individuals, it is important that they can print on the ballot paper such particulars as to which bodies support them.

President, my conclusion is that this is a pragmatic and proper amendment which can bring benefits to all political parties and groupings as well as prospective candidates.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Secretary for Constitutional and Mainland Affairs, you may now move the second motion.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I move that the second motion under my name be passed.

The Secretary for Constitutional and Mainland Affairs moved the following motion:

"RESOLVED that the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 74 of 2011 and laid on the table of the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011

1. Section 22 amended (Section 103 amended (Election advertisements))
 - (1) Section 22(1), Chinese text, new section 103(4A)(a) —
Repeal
"以其他方式使用"
Substitute
"作其他用途".

- (2) Section 22(2), Chinese text, new section 103(5A) —

Repeal

"以其他方式使用"

Substitute

"作其他用途".

- (3) Section 22(3) —

Repeal new section 103(6)

Substitute

"(6) A candidate must furnish to the Returning Officer —

- (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means —

- (i) in the manner and format specified by the Commission, an electronic copy of the advertisement —

(A) before so displaying, distributing or using it; or

(B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or

- (ii) 2 hard copies of the advertisement —

(A) before so displaying, distributing or using it; or

(B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;

- (b) in the case of any other election advertisement, subject to subsection (7), 2 copies of the advertisement before displaying, distributing or otherwise using it."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Secretary for Constitutional and Mainland Affairs, you may now move the third motion.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I move that the third motion under my name be passed.

The Secretary for Constitutional and Mainland Affairs moved the following motion:

"RESOLVED that the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 75 of 2011 and laid on the table of the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Electoral Affairs Commission (Electoral Procedure)
(Election Committee) (Amendment) Regulation 2011

1. Section 23 amended (Section 100 amended (Election advertisement))
 - (1) Section 23(1), Chinese text, new section 100(4A)(a) —
Repeal
"以其他方式使用"
Substitute
"作其他用途".
 - (2) Section 23(2), Chinese text, new section 100(5A) —
Repeal
"以其他方式使用"
Substitute
"作其他用途".
 - (3) Section 23(3) —
Repeal new section 100(6)
Substitute
"(6) A candidate must furnish to the Returning Officer —
 - (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means —
 - (i) in the manner and format specified by the Commission, an electronic copy of the advertisement —
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or
 - (ii) 2 hard copies of the advertisement —
 - (A) before so displaying, distributing or using it; or

- (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;
- (b) in the case of any other election advertisement, subject to subsection (7), 2 copies of the advertisement before displaying, distributing or otherwise using it."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Secretary for Constitutional and Mainland Affairs, you may now move the fourth motion.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I move that the fourth motion under my name be passed.

The Secretary for Constitutional and Mainland Affairs moved the following motion:

"RESOLVED that the Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 76 of 2011 and laid on the table of the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011

1. Section 2 amended (Electoral Procedure (Chief Executive Election) Regulation amended)
Section 2 —
Repeal
"18"
Substitute
"19".
2. Section 18 amended (Section 81 amended (Election advertisement))
 - (1) Section 18(4), Chinese text, new section 81(1A)(a) —
Repeal
"以其他方式使用"
Substitute
"作其他用途".
 - (2) Section 18(4), Chinese text, new section 81(1C) —
Repeal
"以其他方式使用"
Substitute
"作其他用途".
 - (3) Section 18(4) —
Repeal new section 81(1D)
Substitute
"(1D) A candidate must furnish to the Returning Officer —

- (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means —
 - (i) in the manner and format specified by the Commission, an electronic copy of the advertisement —
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or
 - (ii) 2 hard copies of the advertisement —
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;
- (b) in the case of any other election advertisement, subject to subsection (1E), 2 copies of the advertisement before displaying, distributing or otherwise using it."

3. Section 19 added
After section 18 —

Add

"19. Section 82 amended (Offence)
Section 82(2), after "81(1)" —

Add

", (1B), (1D), (1E), (1F), (1G) or (1H)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Secretary for Constitutional and Mainland Affairs, you may now move the fifth motion.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I move that the fifth motion under my name be passed.

The Secretary for Constitutional and Mainland Affairs moved the following motion:

"RESOLVED that the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 78 of 2011 and laid on the table of the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Particulars Relating to Candidates on Ballot Papers
(Legislative Council and District Councils) (Amendment)
Regulation 2011

1. Section 1 substituted
Section 1 —
Repeal the section
Substitute
"1. Commencement
(1) This Regulation (except section 3) comes into operation on 8 July 2011.
(2) Section 3 comes into operation on 1 June 2012."
2. Section 2 amended (Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation amended)
Section 2 —
Repeal
"section 3"
Substitute
"sections 2A, 3 and 4".
3. Section 2A added
After section 2 —
Add
"2A. Section 2 amended (Interpretation)
Section 2(1) —
Repeal the definition of *relevant cut-off date*
Substitute
relevant cut-off date (有關截止日期) —
(a) in relation to any annual registration cycle within which an ordinary election is

to be held, means 15 June in that annual registration cycle; or

- (b) in relation to any other annual registration cycle, means 15 April in that annual registration cycle;". "

4. Section 4 added

After section 3 —

Add

"4. Section 36 amended (Transitional provision)

Section 36 —

Repeal subsections (1) and (2)

Substitute

"(1) If an application is made under section 8(1), 9(1), 24(1) or 25(1) at any time during the period between 16 April 2011 and 15 July 2011, the relevant cut-off date of the annual registration cycle ending on 31 December 2011 is, despite the definition of *relevant cut-off date* in section 2(1), 15 July 2011.

(2) If an objection is made under section 22(1) at any time during the period between 16 April 2011 and 15 July 2011, the relevant cut-off date of the annual registration cycle ending on 31 December 2011 is, despite the definition of *relevant cut-off date* in section 2(1), 15 July 2011."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) Regulation 2011 and the Poisons List (Amendment) Regulation 2011.

I now call upon the Secretary for Food and Health to speak and move the motion.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put under different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of eight pharmaceutical products, the Pharmacy and Poisons Board proposes to add the following eight substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations:

- (a) Clozapine; its salts;
- (b) Corifollitropin alfa;
- (c) Denosumab;
- (d) Fenticonazole; its salts;
- (e) Prulifloxacin; its salts; its esters; their salts;
- (f) Rasagiline; its salts;
- (g) Roflumilast; its salts; and
- (h) Romiplostim.

Pharmaceutical products containing the above substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

In addition, the Pharmacy and Poisons Board proposes to relax the control of Terbinafine; its salts when contained in preparations for external application only with no more than 1% of Terbinafine and not to be administered as single application and when labelled for the treatment of tinea pedis and/or tinea cruris only; by reclassifying them from Part I of the Poisons List to Part II of the Poisons List only.

We propose that these amendment regulations take immediate effect upon gazettal on 8 July 2011 to allow early control and sale of the relevant medicine.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under the Ordinance to regulate pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicine concerned.

With these remarks, President, I move the motion.

The Secretary for Food and Health moved the following motion:

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 13 June 2011, be approved —

- (a) the Pharmacy and Poisons (Amendment) Regulation 2011;
and
- (b) the Poisons List (Amendment) Regulation 2011."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Food and Health be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Professional Accountants (Amendment) Bylaw 2011.

I now call upon the Secretary for Financial Services and the Treasury to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the Professional Accountants (Amendment) Bylaw 2011 (the Amendment Bylaw) be amended as set out on the Agenda.

Currently, the Professional Accountants Bylaws (the Bylaws) enable members of the Council of the Hong Kong Institute of Certified Public Accountants (HKICPA) who cannot be physically present at the Council's meetings to attend the meetings and vote by telephone, video conferencing or other electronic means. However, the Bylaws do not specifically provide for voting by ballot by remote participants.

To enable the HKICPA to benefit from the fuller participation of those Council members who cannot be physically present at the meetings, the HKICPA has approved the Amendment Bylaw to enable remote participants to vote by ballot. In this regard, the HKICPA has put in place a secure Internet platform which has audio and visual capabilities to support remote participation as well as voting by ballot by Council members at the meetings. The proposed arrangement will provide the necessary flexibility to Council members while ensuring the fairness and security of the voting process.

The Legislative Council subsequently set up a Subcommittee to scrutinize the Amendment Bylaw. In the course of scrutiny, the Subcommittee was concerned that the Amendment Bylaw would restrict the means by which remote participants could vote on any issue. We accept the proposal of the Subcommittee to make related technical amendments to section 3 of the Amendment Bylaw (that is, the newly added Bylaw 8(5)) to enable these participants to cast a vote orally or by other means.

I sincerely thank all members of the Subcommittee for advancing valuable views in the course of scrutiny of the Amendment Bylaw. I hereby call upon Members to support the proposed amendments.

Thank you, President.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Professional Accountants (Amendment) Bylaw 2011, published in the Gazette as Legal Notice No. 70 of 2011 and laid on the table of the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendment to Professional Accountants (Amendment) Bylaw 2011

1. Section 3 amended (By-law 8 amended (Voting at meetings of Council))
Section 3, new by-law 8(5) —
Repeal
"means"
Substitute
"includes"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

MR JAMES TO (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Professional Accountants (Amendment) Bylaw 2011 (the Subcommittee), I now brief Members on the deliberations of the Subcommittee.

The Professional Accountants (Amendment) Bylaw 2011 (the 2011 Amendment Bylaw) seeks to amend bylaw 8 of the Professional Accountants By-laws, making it possible for members of the Council of the Hong Kong Institute of Certified Public Accountants (HKICPA), who are physically present at a Council meeting or who participate through electronic means, to vote by secret ballot at the meeting. The arrangement will facilitate, in particular, the annual election of President and Vice Presidents by the HKICPA Council members because, as provided in the existing bylaw 12(4) of the Professional Accountants By-laws, the two elections shall be determined by ballot.

The Subcommittee has held two meetings to discuss the 2011 Amendment Bylaw with the Administration and the HKICPA.

The Subcommittee is aware of the need for the HKICPA to follow the global trend in allowing its Council members to participate in its Council meetings through electronic means and of the fact that the new arrangement will enable Council members, who cannot physically attend a meeting, to participate in its Council meetings. However, Subcommittee members are concerned that enabling electronic participation in meetings might discourage physical attendance at meetings. The HKICPA has explained that its Council meetings all along had a high physical attendance rate. Bylaw 8 of the Professional Accountants By-laws was amended in July 2010 to allow its Council members to participate in its meetings by electronic means and there was little change in its members' attendance at Council meetings in terms of those physically present and those attended through electronic means before and after the 2010 bylaw amendment. The HKICPA is thus of the view that the ability for its Council members to participate and vote remotely in its Council meetings will not have negative impact on their physical attendance at meetings, or in any way encourage absenteeism.

Some Subcommittee members are concerned about how to ensure the fairness and security of the voting process on the part of HKICPA Council members participating in meetings through electronic means. The HKICPA has advised that every member of the HKICPA Council is required to sign an

undertaking declaring that they will attend its meetings in a private and secured environment and that the undertaking will be updated after the passage of the 2011 Amendment Bylaw. Before conducting the ballot voting, the convenors will reaffirm with these Council members that the above conditions are met. In order to facilitate the ballot voting arrangement via electronic means, the HKICPA has purchased a secure online collaboration platform which allows every Council member to cast secret ballots and ensure that all data are safe.

The Subcommittee considers that the election of President and Vice Presidents of the HKICPA Council is an important matter underpinning public confidence in the governance of the HKICPA Council. Some Subcommittee members suggest that the HKICPA should consider setting a limit on the number of members who might participate and vote in the election through electronic means, so as to prevent the situation of a large number of members voting by ballot through electronic means, thereby giving rise to queries about the credibility of the election. In this connection, the HKICPA has pointed out that the 2011 Amendment Bylaw has already gone through a proper due process and was unanimously approved by its Council and its members at its Annual General Meeting. The HKICPA Council thus expressed reservation about further amending the 2011 Amendment Bylaw, but it undertook that it would ask the Governance Review Task Force to consider the suggestion afresh.

While respecting that the HKICPA Council, being the governing body of a self-regulatory professional body of the accountants, has autonomy in affairs relating to its operation and internal matters, the Subcommittee stresses that it is important for the HKICPA Council to enhance its transparency in order to foster public confidence in its work and governance. In this connection, Subcommittee members have made some suggestions on the voting procedure of the HKICPA Council and on enhancing the transparency of its work. The suggestions include: (a) consideration should be made by the HKICPA Council on relaxing the requirement of obtaining the approval of the majority members for claiming a division on the votes and conducting ballot voting; (b) during the election platform sessions, debates and question and answer sessions should be made available among candidates standing for the election of President and Vice Presidents of the HKICPA Council; (c) and the number of votes received by each candidate should be disclosed; and (d) the disclosure of deliberations of the HKICPA Council should be increased.

The HKICPA has advised that its Council attaches great importance in enhancing its transparency and governance, and it is now considering the proposals concerned and would take note of the Subcommittee's views in this respect. It would, where appropriate, inform the Panel on Financial Affairs of the Legislative Council of the progress.

The Administration will introduce a technical amendment to bylaw 8(5) of the Professional Accountants By-laws to the effect that members of the HKICPA Council, when participating in meetings through electronic means and voting by a show of hands, can cast their votes orally or by other means. The Subcommittee has indicated its support to the amendment.

President, the following is my personal view.

President, as I just mentioned, allowing voting by electronic means will enable members of the HKICPA Council who cannot physically attend its meetings (for example when they are abroad) to vote in the election of its President and Vice Presidents. President, I am concerned about this arrangement. It is because if they can physically attend the meetings, they will be able to know the attendance rate and the security of the meeting and whether they are, at least superficially, subject to any coercion. Contrarily, if the HKICPA Council only consists of 20-odd members and a limit is not set on the number of members who can vote by electronic means, it is possible that the meeting room will, in extreme cases, only have a few members present, while a score or more of them who are out of town will connect with the meeting via a computer screen electronically and the convenor will reaffirm with them whether they are at a safe or secured environment before they cast their votes. However, it is impossible for us to know the environment in which the overseas members are situated, for instance, whether they are subject to any coercion or in a special situation. This may have an impact on the credibility of the election.

Despite the fact that the 2011 Amendment Bylaw has already been endorsed by ballot by the HKICPA members at its Annual General Meeting, I hope that the HKICPA will later seriously reconsider setting a limit on the number of members who can vote by electronic means. My idea is, if the HKICPA Council has 20-odd members The rationale they cited was that a few members were on business trip, and once a member fell sick and could not attend the meeting. In a voting involving only 20-odd members, one vote can

make a big difference on the result. They thus wish that the use of electronic means in voting can be permitted. However, assuming that or in the examples just mentioned, people would question the credibility of the election. Actually, a so-called coterie election was evident in past elections, particularly Rural Committee Elections. Many voters were suddenly invited to visit Thailand for tour, massage or sightseeing at a time when elections were impending; as a result, the voting result was influenced. Some hold that this is unfair. The situation at hand is certainly different because Council members in overseas countries can participate in meetings via video conferencing. We are not sure if these members have been subject to coercion; if so, what kind of coercion they have been subject to. It has also come to my thought that even if Council members physically attend the meeting to cast their votes, they may also subject to certain coercion. There is always such a possibility. However, if Council members are genuinely out of town, it is impossible for us to guarantee that the election would be held in a fair manner with no Council members being coerced. In particular, if a limit is not set on the number of members who can use electronic means to cast their votes. Given that the posts of President and Vice President are so important, if the majority of members (80% to 90%) are out of town and cannot attend the meeting, I think it is better to postpone the meeting date than having all members to cast their votes online. Postponing the meeting will win public confidence on the HKICPA elections and people will respect them more. I believe setting a limit is a rational and reasonable approach. If the number of Council members who wish to vote by electronic means has exceeded the limit, making it impossible for its members to cast their votes, the election should then be postponed as the date is probably inconvenient to the majority of the members. If the election is postponed due to this reason, the credibility of the election is less likely to be questioned.

With respect to other proposals, as a professional myself, I certainly respect the autonomy of the HKICPA as a professional body, and I am also confident that it will carefully consider our proposals as long as they are sensible and reasonable.

Yet, I am surprised to learn that the numbers of votes secured by the elected HKICPA President or Vice Presidents are not disclosed to the public. The numbers of votes are undisclosed to the public, and even undisclosed to tens of thousands of members. Why should the votes casted to the President and Vice Presidents be kept as secret? The HKICPA explains that the practice is to

avoid ill-feelings among Council members. Given the small membership of the Council of 20-odd members, and the short duration of the term of office which only last one year, there may be resentment among candidates if they get a very close number of votes. Honestly, I find it hard to accept this argument.

If they are professionals and if the election is fairly conducted, honestly, I do not see why the numbers of votes cannot be disclosed even if the elected member has won by one vote. If the term of office of Council members is only one year, and according to the HKICPA tradition, Council members will take turns to be the President or Vice President in the following year or the year after, it is impossible that the member who has lost the election will refuse to co-operate with the winning member. I personally cannot accept this argument.

However, no matter what, I know that they have been members of the HKICPA Council for many years and the general public (including other Members of his Council) may not be aware of this practice and thus have not voiced any opinion in relation to this practice. While I fully respect their autonomy as a professional body, I hold that they should keep abreast of the times. As they have said, it is now possible to conduct the voting by electronic means and the HKICPA can be the pioneer in this regard. However, as far as I know and according to the information we have collected from seven to eight similar professional bodies which also have a council consisting of 20-odd members, these professional bodies do not use electronic means in voting. The HKICPA may really find this necessary, but as it wishes to keep abreast with the times, I think they should follow other professional bodies in disclosing the numbers of votes and the election results to its members or to the public. I think they have reasonable grounds to consider my views.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, do you wish to speak?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, here, I once again thank the support of the Subcommittee.

Just now, Mr James TO has put forth a number of proposals in relation to the conducting of meetings, election and the voting procedures of the HKICPA Council. As far as I know, the HKICPA will take appropriate follow-up actions. I thank Mr James TO for his views. President, I do not have anything to add on this subject.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 28/10-11 of the House Committee laid on the Table of the Council in relation to the five Orders made under the Inland Revenue Ordinance.

PRESIDENT (in Cantonese): According to the relevant debate procedure, I will first call upon Ms Miriam LAU to speak and move the motion, and then call upon the Chairman of the Subcommittee formed to scrutinize the relevant items of

subsidiary legislation to speak, to be followed by other Members. Each Member may only speak once and may speak for up to 15 minutes. Finally, I will call upon the public officer to speak. The debate will come to a close after the public officer has spoken, and the motion will not be put to vote.

Members who wish to speak will please press the "Request to speak" button.

I now call upon Ms Miriam LAU to speak and move the motion.

MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairman of the House Committee, I move that the motion under Rule 49E(2) of the Rules of Procedure, as printed on the Agenda, be passed, to facilitate Members' debate on the following five Orders as set out in Report No. 28/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments:

- (1) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Japan) Order;
- (2) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (French Republic) Order;
- (3) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Principality of Liechtenstein) Order;
- (4) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (New Zealand) Order; and
- (5) Specification of Arrangements (Government of the Grand Duchy of Luxembourg) (Avoidance of Double Taxation on Income and Capital and Prevention of Fiscal Evasion) (Amendment) Order 2011.

Ms Miriam LAU moved the following motion: (Translation)

"That this Council takes note of Report No. 28/10-11 of the House Committee laid on the Table of the Council of 6 July 2011 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Japan) Order (L.N. 64/2011)
(2)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (French Republic) Order (L.N. 65/2011)
(3)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Principality of Liechtenstein) Order (L.N. 66/2011)
(4)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (New Zealand) Order (L.N. 67/2011)
(5)	Specification of Arrangements (Government of the Grand Duchy of Luxembourg) (Avoidance of Double Taxation on Income and Capital and Prevention of Fiscal Evasion) (Amendment) Order 2011 (L.N. 68/2011)."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

MR JAMES TO (in Cantonese): President, may I postpone delivering my speech? I have lost my draft speech.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr TO, do you want to postpone the handling of the whole motion?

MR JAMES TO (in Cantonese): No, President. I hope that President could suspend the meeting for a few minutes because my draft speech is now being sent by facsimile.

PRESIDENT (in Cantonese): Upon the request of Mr James TO, I now suspend the meeting.

4.40 pm

Meeting suspended.

4.44 pm

Council then resumed.

MR JAMES TO (in Cantonese): I am sorry, President and Honourable colleagues. In fact, I have placed this draft speech under the draft of my previous speech but I keep looking for it elsewhere.

President, in my capacity as Chairman of the Subcommittee on Five Orders Made under section 49 of the Inland Revenue Ordinance and Gazetted on 13 May

2011 (the Subcommittee), I now report to the Council the deliberations of the Subcommittee.

These five Orders implement the Comprehensive Agreements for Avoidance of Double Taxation (CDTA) that Hong Kong respectively signed with Japan, the French Republic (France), the Principality of Liechtenstein (Liechtenstein) and New Zealand for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, and implement the protocol signed between Hong Kong and Luxembourg to amend the CDAs signed on 2 November 2007.

The Subcommittee held one meeting to meet with the Administration and scrutinize the five Orders.

Concerning the exchange of information (EoI), the Subcommittee noted that in the CDAs signed with France and New Zealand, there are express provisions stating that the EoI Article in the respective Agreements does not create obligations on the contracting parties to exchange information on an automatic or a spontaneous basis. However, in the CDAs signed with Japan and Liechtenstein, there are no such express provisions. The EoI Article under the Luxembourg Protocol also does not contain such express provision.

The Administration has advised that the respective EoI Article in the four CDAs and in the Luxembourg Protocol do not impose any obligation for "spontaneous or automatic exchange" on the contracting parties. In Hong Kong, the Administration is obliged to comply with the Inland Revenue (Disclosure of Information) Rules (the Rules) which prevent spontaneous or automatic exchange by requiring case-specific information to be provided by Hong Kong's treaty partners before the Inland Revenue Department can accede to their EoI requests. In each of the CDA, there is a paragraph specifying that the provisions in the EoI Article shall not be construed as to impose on a contracting party the obligation to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other contracting party.

The Administration has further advised that, in the negotiation process, Hong Kong will attempt to include express provisions in the CDAs, as far as possible, to forbid automatic and/or spontaneous exchange of information. The inclusion of the EoI Article would depend on the stance of the particular treaty partner. The Administration has explained the legal requirements of the Rules

to all the treaty partners, and has provided them with copies of the Rules during the course of negotiation.

The Subcommittee considers that the Administration should seek to include an express provision to forbid automatic and/or spontaneous exchange of information in all CDTAs, so as to avoid possible misunderstanding between the contracting parties on the issue. Where such express provision is not included in a CDTA because of the stance of the treaty partner, the Administration should seek to put on record in official negotiation documents, such as the minutes of meetings, the mutual understanding that there shall be no automatic and/or spontaneous exchange of information under the CDTA. The Administration has accepted this suggestion.

The Subcommittee has also expressed concern about the tax obligations of a Hong Kong resident who also possesses the right of abode or national status of the jurisdiction with which Hong Kong has signed a CDTA.

The Administration has advised that in all the CDTAs Hong Kong has entered into, paragraph 1 of the Article on "Resident" provides the definition of the term "resident of a Contracting Party" for the purposes of the respective Agreements. Where by reason of the provisions of paragraph 1 of the Article an individual is a resident of both contracting parties, the status of the resident will be determined according to the criteria set out in paragraph 2 of the Article. If based on those criteria the status of the individual remains unresolved, the matter will have to be settled through mutual agreement of the Contracting Parties.

While noting that the Administration has not yet encountered any case of unresolved status of a taxpayer under the CDTAs that have been in force, I have suggested at the meeting of the Subcommittee that the Administration should get prepared and draw up relevant policy guidelines for the determination of the resident status of a taxpayer in case the issue may have to be settled in future through mutual agreement of the Contracting Parties.

The Subcommittee has sought clarification as to whether Hong Kong residents having been charged withholding tax on dividends, interest and royalties by the treaty partners will be regarded as having completely fulfilled their tax payment obligation with respect to the relevant income. The Administration has provided a written response.

The Subcommittee has also deliberated over the differences between the "non-discrimination provisions" and "mutual agreement procedure" in various CDTAs, and the consequences of such differences, especially the impacts on the rights of the residents of the contracting parties.

The Subcommittee has learnt that the five agreements and the Protocols are included in appropriate provisions to safeguard the interests of local taxpayers and protect the privacy of personal data. The Subcommittee supports these five Orders.

President, I would like to simply express my views as we have already signed more than 10 agreements with various countries for the avoidance of double taxation.

We really need to draw up the relevant provisions. In particular, the famous Italian brand Prada has recently been listed in Hong Kong, and it is disclosed in the listing documents that Hong Kong residents may be charged Italian tax (withholding tax) on the dividends for the shares.

Concerning the items and standards of the withholding tax, whether or not we have signed the relevant agreements with various countries has significant impacts on many people who have to pay withholding tax for dividends. For this reason, I hope that the Government would make its best efforts to enter into agreement with more countries and regions for the avoidance of double taxation in accordance with certain laws and principles endorsed by the Legislative Council, especially with regard to taxes levied on incomes and dividends.

This example also illustrates that not only those operating big business will be affected. Simple issues, such as receiving dividends for shares may affect the daily living of the people, and the impact is significant. As such, I hope that the Government would be ready to sign more such agreements.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, you may speak.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Mr TO for his support for the implementation of the five Orders including the Comprehensive Agreements for Avoidance of Double Taxation (CDTAs) signed between Hong Kong and Japan, Hong Kong and France, Hong Kong and Liechtenstein, and Hong Kong and New Zealand, as well as the Protocol entered into by Hong Kong and Luxembourg. I would also like to thank Mr TO for the views he expressed at the meetings of the Subcommittee.

Every CDTA will be tabled in the Legislative Council in the form of subsidiary legislation. Regarding these five Orders to be tabled in the Legislative Council, we have clearly stated in the paper submitted to the Legislative Council whether each Agreement has included safeguards to protect the information exchanged.

Since the commencement of the Inland Revenue (Amendment) Ordinance 2010 in March last year, we can adopt in the Agreements the existing data exchange criteria of the Organization for Economic Co-operation and Development, and we have so far tabled in the Legislative Council 11 Agreements and two Protocols; we have finished signing or deliberating eight other Agreements, which will then be tabled in the Legislative Council.

Furthermore, we have started negotiating with about 10 partners. I agree with Mr James TO and we will proactively explore with various other regions the possibility of signing such agreements. We will consider selecting discussion targets in light of the economic exchanges between these partners and Hong Kong, the views of the industry players, the actual situation of double taxation, as well as the partners' potentials for economic development. In the future, we will continue to make efforts and we will continue to proactively expand our agreement network, so as to enhance our status as an international financial and business centre. Thank you, President.

PRESIDENT (in Cantonese): Under Rule 49E(9) of the Rules of Procedure, I shall not put any question on the motion.

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): First motion: Immediately announcing the resumption of the construction of Home Ownership Scheme flats.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr Alan LEONG to speak and move the motion.

IMMEDIATELY ANNOUNCING THE RESUMPTION OF THE CONSTRUCTION OF HOME OWNERSHIP SCHEME FLATS

MR ALAN LEONG (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, recently, it seems that there are signs of the "Chief Executive executing orders from Beijing officials" in respect of the replacement mechanism of the Legislative Council. Earlier, the same tendency was detected in respect of another policy. During his visit to Hong Kong, Mr WANG Guangya, the Director of the Hong Kong and Macao Affairs Office of the State Council, pointed out that it would be best if the Government could address the housing problem of Hong Kong and improve the people's livelihood. Of course, the political practice of the "Chief Executive executing orders from Beijing officials" should be discouraged because in the long run, it would undermine the principle

of "Hong Kong people ruling Hong Kong with a high degree of autonomy" enshrined in the Basic Law.

Nonetheless, Donald TSANG who always likens himself to a wage earner immediately jumped to respond. When being interviewed in Australia earlier, he hinted that consideration would be given to resuming the Home Ownership Scheme (HOS). Through our debate on the motion today in this Chamber, I would like to remind the Government of the latest developments that a consensus has already been reached in society calling on the immediate resumption of the HOS by the Government. President, before speaking on the policy of resuming the HOS, I must point out that in the same television interview in Australia, the Chief Executive even claimed that there was no housing problem in Hong Kong. His remark of course attracted public outcry. It seems that the Chief Executive is even more out of touch with the actual circumstances of the society than we have thought. He seems to be living in another planet.

According to the statistics of the Society for Community Organization, the number of applicants on the Waiting List of public rental housing (PRH) has increased sharply from 129 000 in March 2010 to 152 000 in March 2011, representing a staggering increase of 17.8%. However, in the past few years, only about 20 000 PRH units were allocated by the Hong Kong Housing Authority on average annually. This level of PRH provision cannot satisfy the demands of the grassroots at all.

President, in addition to the housing problem faced by the grassroots, soaring property prices have also affected a group of people who are not eligible for PRH but cannot afford home ownership in the private market. This class of people is "caught in the middle". Many young people choose to postpone their plans for marriage or even parenthood because of the difficulty in home ownership. As such, housing is not only a problem in Hong Kong; it is also a serious problem not to be overlooked by the Administration. Hence, being in office for eight years, Chief Executive Donald TSANG still makes a remark that is so out of touch with the actual circumstances of the society, he should thus be condemned. Of course, as the President may have noticed, the amendments proposed by several pro-establishment Members today invariably delete the words of condemnation against the Chief Executive in my original motion. Of course, they will explain their amendments later on, but I still consider that if the

Chief Executive is so out of touch with the situation of Hong Kong, it does not make sense if he is not condemned.

President, throughout the some 30 years' history of the HOS, there are different HOS policies at different times to tie in with the prevailing social circumstances. As analysed by Prof LAU Kwok-yu who is familiar with the HOS policy, the Government implemented the HOS policy for two reasons: (1) after the continuous economic growth in the 1960s, many people in Hong Kong were living a stable life and had accumulated some savings in the 1970s; while the income of many households had exceeded the eligibility requirement for PRH, they still could not afford to buy the expensive properties in the private market; (2) with the increasing number of well-off PRH tenants, the Administration hoped that they would acquire their own homes, hence vacating the PRH units for households on the Waiting List.

As things have changed with the passing of time, the current economic situation of Hong Kong has also undergone substantial changes. At present, Hong Kong's economic activities are closely related to the Mainland, with free flow of capital being one of the characteristics of Hong Kong's economic system. Since the economic reform and opening up of China, the speed of wealth accumulation of Mainland citizens is faster than expected, and owing to the regional factor, many Mainland compatriots have been attracted to acquire properties in Hong Kong either for investment or settlement. The influx of capital from the Mainland has pushed up property prices. The persistent and substantial purchasing power has gradually changed the supply and demand in the local property market. Aiming at more profits, real estate developers have started to change their role as the supplier and they gladly turn the property market of Hong Kong into a national market. Their sales target has changed from Hong Kong people to Mainland citizens. Given the limited supply of residential properties in Hong Kong and the substantial demand from the Mainland, property prices naturally rise continuously and go far beyond the affordability of local people.

In the face of the restructuring trend in the property market over the past few years, the Government should re-examine its overall housing policy. The Civic Party considers that given the different pace of economic development in the Mainland and Hong Kong, the inflow of Mainland capital to our local property market will continue. Hence, the Administration should play a more

active role in resolving the housing problem by implementing various policies so that the people can live and work in contentment.

By resuming the HOS, the Government is fulfilling its duty to take care of the needy in society. The Administration should adjust the details of this policy so that the HOS can better meet the current needs of the community. The Civic Party wishes to put forth the following suggestions to the Government:

- (a) We consider that resuming the HOS is of an urgent need. The Administration should identify suitable sites as soon as possible so that this policy can be taken forward expeditiously. The most efficient approach is to resume the construction of HOS flats on sites earmarked for the My Home Purchase Plan (MHPP). According to the initial estimates of the Government, about 5 000 units can be provided on sites earmarked for the MHPP, hopefully by 2014. Apart from sharing the public's urgent concern, this approach can speed up the resumption of the HOS policy. The MHPP was a self-willed political product put forth by Chief Executive Donald TSANG last year, which has been considered by the public ineffective in resolving the current housing problems of Hong Kong. Hence, the Government should not make the community at large pay the price of delaying the construction of HOS flats merely for the sake of saving its face.
- (b) Presently, in the past HOS flats were priced at 70% of the market price. But as private residential flats are priced at an unreasonable level, which are beyond the affordability of the general public, the former pricing mechanism cannot possibly achieve the social objective of resuming the HOS. Therefore, the Government should delink the pricing of HOS flats from market prices and use the affordability of eligible persons and construction costs as the basis of pricing.

When the first phase of HOS was introduced by the Government back then, the principle of full cost recovery was adopted in setting the price and owners were not required to pay any premium. For the current phase of HOS flat owners, their need for home ownership can be fulfilled, and they also have full title of their flats. These

flats could be put up for sale in the secondary market at any time. As such, the liquidity or flexibility of the secondary market for first phase HOS flats is much higher than that for later phases of HOS flats.

The Government should face squarely the problem of low liquidity of the secondary market for later phases of HOS flats. Given the current soaring property prices, HOS flat owners will have difficulty in acquiring a private property after they have sold their flats upon payment of premium. The ladder effect is thus lost, and at the same time, the number of HOS flats available in the market will be affected. In addition, for HOS flats built in the 1980s and 1990s, there are problems of ageing and maintenance. Owners of these flats can do nothing as they have no financial means to pay the premium. Regarding the problem of maintenance, is that the sole responsibility of the owners or will the Government share in the responsibility? The Administration should act with foresight and formulate concrete policies expeditiously so as to rationalize these foreseeable and inevitable problems.

The Civic Party opines that the Government should make good use of the opportunity arising from the resumption of the HOS and conduct an overall review on the current policies regarding the secondary HOS market. The Government should draw on the pricing mechanism of the first phase of HOS, and enhance the flexibility of the secondary market in respect of the payment of premium. The Administration can also consider allowing white-form applicants to acquire HOS flats in the secondary market without payment of premium.

- (c) President, there are now four former PRH sites which are "disposed" sites ready for construction. However, the Government intends to put up these sites for auction to be sold to developers or hand these sites over to the MTR Corporation Limited for the construction of luxury flats. The Civic Party suggests that half of the floor area of these sites be used to construct small and medium-sized HOS flats. From the perspective of urban planning, converting part of the development area of these former PRH sites for the construction of

new HOS flats can ensure a diversified community and avoid excessive gentrification or "luxurization" in the district so as to offer the sandwich class opportunities of continuing to live in the urban areas. In addition, the Government should also re-examine the land use in the Kai Tak Development and consider allocating some land to construct HOS flats on the premise that the supply of PRH units will not be affected.

- (d) President, given that our current economy and the development of the property market have changed substantially since the implementation of the HOS many years ago, the former income and assets limits may not necessarily cater to the demands of the needy group. Hence, the Government should review the eligibility requirements for HOS applicants in the light of actual circumstances, and consider appropriately raising the income and asset limits for applicants. At the same time, we suggest that the Government should increase the ratio of white-form applicants so that the sandwich class who faces the greatest difficulty in home ownership will benefit under the policy.

President, as the HOS is not a new housing policy, there is no need for the Government to spend a lot of time on studies. Therefore, the Chief Executive should not wait until October to announce the details of this plan in the Policy Address. The Government has already wasted too much time on this issue, and people are in dire trouble. The Administration should announce details of resuming the HOS expeditiously or even consider making available "uncompleted" HOS flats so as to provide stability in society. That is the best policy to respond to the public's urgent concern.

President, I so submit. I will carefully listen to the speeches of other Honourable Members and respond to their views in my remaining speaking time.

Mr Alan LEONG moved the following motion: (Translation)

"That, given that private residential property prices still continue to rise and the measures introduced by the Government cannot curb the rising trend of property prices, resuming the Home Ownership Scheme ('HOS') is of an urgent need; yet, when interviewed by a foreign media organization

earlier on, the Chief Executive even claimed that there was no housing problem in Hong Kong; the relevant remark reflects that the Chief Executive is out of touch with the actual circumstances of the society and unable to grasp the seriousness of the current housing problem; in this connection, this Council opines that the Government should not wait until October to announce the resumption of HOS in the Policy Address, and urges the authorities to share the public's urgent concern by immediately announcing the specific details of resuming HOS, so as to relieve the current housing problem; the relevant details should include:

- (a) to use the sites originally earmarked for the My Home Purchase Plan for constructing HOS flats, so as to strive for the completion and supply of flats beginning from 2014;
- (b) to delink the pricing of HOS flats from market prices, and use the affordability of eligible persons and construction costs as the basis of pricing;
- (c) to use certain former public rental housing sites which have been designated for private development (for example, the eastern and western parts of the ex-North Point Estate, as well as the former Homantin Estate Redevelopment Phases 2 and 7 sites) for constructing new HOS flats, so as to offer the sandwich class opportunities of continuing to live in the urban areas;
- (d) to review the eligibility requirements for HOS applicants in the light of actual circumstances, and consider appropriately raising the income and asset limits for applicants; and
- (e) to increase the ratio of white-form applicants (i.e. non-public rental housing tenants)."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Alan LEONG be passed.

PRESIDENT (in Cantonese): Five Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the five amendments.

I will first call upon Mr Frederick FUNG to speak, to be followed by Mr LEE Wing-tat, Mr WONG Kwok-kin, Mr CHAN Kam-lam and Mrs Sophie LEUNG respectively; but they may not move the amendments at this stage.

MR FREDERICK FUNG (in Cantonese): President, when speaking on motion debates in the past few years over the issue of housing, I have always stressed that the Government has been dealing with the problem by the "big market, small government" policy, without really taking care of those people who have actual housing needs. The Government has always adopted what we call "obsolete" or "ineffective" methods to assist people in home ownership, which are restricted to the sale of surplus Home Ownership Scheme (HOS) units or the revitalization of the secondary HOS market. As a result, more people can turn HOS flats into a tool for speculation. Regarding the proposed "rent-and-buy" plan, only 1 000 units will be made available in four years' time. As a matter of fact, all these methods cannot help the people acquire home ownership at all.

During the times of the financial tsunami, the market was in a critical state with overflowing capital and hot money pouring into Hong Kong. Interest rates are kept at a persistently low level and Hong Kong has been inundated with demands driven by Mainland capital. Asset prices have been driven up, far outgrowing the increase in productivity and salary in Hong Kong. As a result, Hong Kong people have become more and more incapable of acquiring properties, particularly for the purpose of home ownership. Obviously, there is a gap between market prices and the actual buying power of the people.

According to survey findings of the Hong Kong Transition Project conducted by the Hong Kong Baptist University, people are most dissatisfied with the Government's performance in three areas, inflation, wealth gap and curbing property prices. 88% of the respondents agreed that the Government should increase spending on education and housing, while 84% supported the resumption of the HOS.

I think the Secretary will mention the measures taken by the Government later on. Let me go through the list for him now. In recent years, the Government has introduced various measures to address the rampant property market in four areas, namely increasing land supply, combating speculative activities, ensuring the transparency of the property market, and preventing excessive expansion in mortgage lending.

Measures implemented by the Government in these areas include increasing housing supply, enhancing the transparency of the property market, implementing the "nine new measures" to regulate the sale of new flats, and disallowing confirmor transactions for first-hand uncompleted flats approved for pre-sale (that is, speculative activities in relation to "confirmor" cases were disallowed) since last August. Furthermore, it was announced in the Policy Address that land would be made available for constructing an average of 20 000 private residential flats per annum in the next 10 years, and the My Home Purchase Plan would be introduced. Subsequently, a special stamp duty was introduced to curb property speculation. Thereafter, the Government announced that it would increase land supply to control the market, and nine residential sites would be put up for sale by auction between April and June. These sites were expected to provide 2 650 flats. Through increasing land supply, the Government was making the public and the developers psychologically prepared, and it would make more sites available in the latter half of the year.

I think the Secretary may repeat these measures again later. But it makes no sense to repeat them because they are irrelevant to today's motion. The Financial Secretary has also pointed out that the current level of property prices has exceeded that in 1997. As shown by the Centa-City Index, the index which was 87.52 last December went up 13% to 99 in the first six months of this year.

All these are clear signals that as a result of economic conditions around the world, such as the European sovereign debt crisis, the adoption of tightening measures to reduce inflation in the Mainland and slackening growth in the United States, Hong Kong is suffering from an extreme condition. We can no longer rely on the market to address the housing problems faced by Hong Kong people. According to some research institutes, Mainland buyers account for about 30% in the property market. The local property market is no longer Hong Kong's own market. It is not a perfect market and hence, our policy can no longer be market-driven. Assuming that the local market will continue to satisfy the demands of Mainland buyers, Hong Kong people can no longer tolerate with this

situation and the Government must implement measures to deal with these extreme circumstances.

I have always considered that resuming the HOS is a feasible measure because as shown by the statistics of the Housing Department, there are now some 82 000 households who are ineligible for public rental housing (PRH) but cannot afford to buy private housing. These households belong to the so-called "sandwich class". We can no longer rely on the market to address their problem. Of course, one can say that if they cannot afford to buy private housing, they can always rent a flat. However, the current level of rent is by no means low, as rental has increased in tandem with property prices. For many households, rental alone accounts for 30% to 40% of their monthly income. Is this a reasonable level? For example, for couples who are both professionals each earning \$20,000 a month and having a monthly household income of \$40,000, they still have pay high rentals to meet their housing need even though they belong to the top 30% wage earners in Hong Kong.

It is obvious that the HOS can help resolve and deal with the problem. I can share with Members three reasons for my view and these are problems which the Government must deal with squarely. Firstly, in the past, the HOS market has provided a ladder as well as a vision for the grassroots to achieve upward mobility. They could move from renting PRH to buying HOS flats, and then to buying private housing. Secondly, the HOS can increase the turnover of PRH units because PRH tenants can buy HOS flats as green-form applicants. Then, their PRH units can be vacated for allocation to other Waiting List applicants. Thirdly, the HOS can provide a steady source of income for the Hong Kong Housing Authority (HKHA). In fact, by preventing and avoiding speculation in the property market as a result of the influx of capital from Mainland citizens, the HOS can create a dedicated market for home owners in Hong Kong.

How can HOS flats be provided expeditiously in the short term? I absolutely cannot accept the Director of Housing's claim that it would take seven years to provide HOS flats. Generally, seven years is needed for "potential sites", that is, sites with neither the provision of road infrastructure nor the supply of water, electricity and gas. But for "disposed sites", it needs not take seven years. When I was still serving with the HKHA, that is, 13 years ago, it would only take three or three-and-a-half years to construct HOS flats. For sites where development was in progress, it would take even less time.

I will put forth some suggestions for the Government's reference. Firstly, construction works are now underway in many sites for constructing PRH to provide 75 000 units in the next five years. Different designs are adopted. For example, for PRH blocks to be built in Kowloon West, there will be 30 to 35 storeys, or even 40 storeys, while 40 or 41 storeys will be built for new PRH Harmony blocks in general. Consideration can be given to increasing the number of storeys in PRH blocks estimated to be completed after one year, so that 40 storeys will be built for buildings which originally have 30 or 35 storeys. In this way, some sites can be vacated for constructing HOS flats without compromising the annual production target of 15 000 PRH units per annum.

In addition, large-sized HOS flats should no longer be built. In the past, the saleable area of the largest HOS flats was up to 800-odd sq ft, that is, a gross floor area of 1 000-odd sq ft. If flats of 500 sq ft or 600 sq ft are built instead, a greater number of HOS flats can be built within a short time. Another way of identifying sites for constructing HOS flats is through the Application List. If sites on the Application List have not been triggered for sale for a long time, it means that there is no market demand or interest for these sites. They can then be used to construct HOS flats. Secondly, sites earmarked for the My Home Purchase Plan will only be exhausted in three to five years' time. Consideration can be given to converting some sites or even all sites to construct HOS flats.

Under the present situation, 5 000 HOS flats are needed in the market per annum. I hope the Government will consider the suggestions I just made so that as soon as According to my estimation, HOS flats can be completed for occupation in about one-and-a-half years' time. If the Chief Executive does indeed announce the resumption of the HOS in the Policy Address in October, applications can then be received before the Lunar New Year, and the flats will be ready for occupation next year (that is, 12 months later) if the mode I just mentioned is adopted to compress PRH sites for making land available for constructing HOS flats.

All in all, I think the existing housing policy is short-sighted and a review is needed. We should formulate two levels of housing policy: one for the market and the other for actual housing needs, so that the two markets will be separated. In the long run, a well-established system of PRH and subsidized home ownership, as well as a housing ladder should be set up so as to enable the lower and middle classes acquire home ownership.

President, I am sorry that I just received an urgent call from my family that a relative is now in hospital owing to emergency condition. Hence, I wish to inform Members that I must leave now and cannot move my amendment later.

MR LEE WING-TAT (in Cantonese): President, the housing problem must be one of the subjects most frequently discussed in this Chamber over the past few years. If you ask members of the public which government policies fall short of public expectation the most, I would say the first one is probably constitutional development because the pace of democratization is too slow; and the second one is housing.

Even when a consensus view has been reached in the community on many issues, the Government still fails to take the matter forward on the pretexts concerning the lack of suitable sites, the statutory procedures to go through, the need to get the Town Planning Board's vetting and approval for reclamation projects, the need to conduct public consultation, the consideration on the type of Home Ownership Scheme (HOS) flats to be constructed (that is, whether the old or new type of HOS buildings should be adopted), and so on. I think people are getting increasingly impatient with the Government on this issue, yet government officials are still testing the public's tolerance.

If the outstanding problem is a minor one, the Administration can of course say that there are hundreds of problems waiting to be resolved. But when the situation is already very critical, the public would expect quick actions from government officials to resolve the problem of their urgent concern. This problem has been discussed in this Chamber for many years, yet still no conclusion has been drawn. Honestly, a great responsibility is involved. Have the Chief Executive Donald TSANG, Chief Secretary for Administration Henry TANG and Secretary for Transport and Housing Eva CHENG not heard the views of the public?

As I said in many motion debates before, do they live in Hong Kong? I think they do live in Hong Kong, but are they living the life of an ordinary citizen? What is meant by the life of an ordinary citizen? For example, ordinary citizens travel on the MTR; they usually have breakfast at a Hong Kong style tea cafe for \$20-odd (no breakfast is now served in Hong Kong style tea cafes for less than \$20), they eat fast food occasionally at fast-food chain cafes.

On Saturdays and Sundays, they have dim sum at a Chinese restaurant or go hiking. This is the life of an ordinary citizen. Have they ever lived such a life? I sometimes wonder, do they live in Mars and suddenly come to Earth to live in Hong Kong, thus they consider these problems highly complicated, and unsurprisingly, no conclusion can be drawn because the subject has only been discussed for a short while from 2009 to date. This is acceptable if Donald TSANG, Henry TANG and Eva CHENG all lived in Mars, and knew nothing about the sufferings of Hong Kong people. Are our views novel? Honestly, there is nothing new about this motion and the amendments. We have already discussed this subject seven or eight times in this Council, yet we must raise it again now.

I want to share with Members some observations. First of all, I recently ran into a good friend who is an economist. I was surprised to learn that he had started reviewing the theories of the Chicago school of economics that he upheld. As Members would know, the theory of the Chicago school of economics is advocated by Milton FRIEDMAN, who considered that free market could in general resolve all problems in the world and no problems would remain unresolved in a free market. During our conversation, I felt that changes in society had given my friend some new insights into the Government's policy on subsidized housing. For me, this observation is something new.

Secondly, more and more real estate developers have proclaimed publicly that they do not oppose the resumption of the HOS. President, this is hardly a new observation as I have been mentioning it for some months. Why does this happen? From what I gathered from a friend close to the developers, they no longer regard ordinary members of the public as potential buyers, not to mention middle-class households with a monthly income of \$30,000 to \$40,000 or even our Honourable colleagues with a remuneration of \$70,000 per month. I cannot afford to buy a flat in the new residential development by the name of "XX Hill" in Wong Tai Sin either; I will not name names because advertising is prohibited. Those flats sell for more than \$10,000 per square foot. If a flat of 1 000 sq ft Even if it is a flat of 700 sq ft, the price would be some \$8 million to \$9 million. There is another residential development by the name of "X City" in Tai Wai and the flats are selling for more than \$10,000 per square foot. A flat of 800 sq ft will sell for \$10 million. These price tags are hardly affordable to the ordinary citizens or even the middle class in Hong Kong. Hence, they are no longer the targets of real estate developers. To real estate developers, we are the

"poor devils"; President, we are all "poor devils". How can we afford to buy these flats? I am not talking about properties in the Peak. These flats are just fantasies; we see them when we go hiking at the Peak. That is my second observation.

My third observation is that the economy does go round in cycles. We are becoming more and more aware that once we want certain urgent actions taken by the Government, it will insist on having lengthy discussion or consultation such that when actions are to be taken, the economic cycle has been reversed. Property prices were spiralling from 2008 to 2009. Everybody including home buyers knew that the property market could not stay on an upward trend indefinitely because it went against the basic laws of economics. However, when would the trend be reverted? Nobody knew. Was that going to be five years, seven years or 10 years? Nobody knew. My third observation is that Hong Kong's economy will complete a major circle in roughly seven to 10-odd years. As the Government has been so slow in taking actions, nothing was done when the economy was upbeat and actions were only taken when the economic cycle had reversed. It could create the wrong impression that problems were caused by the construction of HOS flats. I really do not know whether this is some "overt" or "covert" trick of the Government.

Fourthly, during our conversation, I was glad to hear my friend of the Chicago school of economics say that the property market was not dragged down by the HOS in 2002 and 2003. Only two factors are most influential in the global economy: the first one is interest rate and the second money supply. These two are not factors which Hong Kong, not only Hong Kong but even major countries in Europe and Asia, can influence.

From the above observations, the first conclusion we can draw is that the Government needs a stable and long-term housing and land policy. By stable and long-term, I mean any annual housing production target determined by the Government, say 30 000 to 40 000 units, must be implemented in a sustained manner. It should not increase production to 50 000 or 60 000 units when the property market is upbeat, or only construct 10 000 units when the market is on a downward trend and suspend the sale of HOS flats just like what it did in 2003. Otherwise, all the people who are involved in this policy will become disoriented.

Secondly, I think the current grouping of Policy Bureaux is wrong. In this regard, Mrs Regina IP has made a suggestion which I do not totally agree. The

biggest problem is that the policy portfolios of housing and land do not fall under the same Director of Bureau. I sometimes do not know whether the two sisters (I mean Eva CHENG and Carrie LAM) are thinking along the same line. To me, it is alright even if the portfolios of transport and housing fall under different bureaux. However, the Government should consider whether the same Director of Bureau should be responsible for policies on housing and land so that when land supply is needed, he does not have to go to another Director of Bureau, but can make his own decisions to identify adequate land to ensure a steady supply of housing. That is my second conclusion.

Thirdly, the Government should learn from the Build-To-Order System (BTO) in Singapore. Under the system, BTO flats can either be rented or purchased, and about 70% to 80% of Singaporeans live in these BTO flats. When the basic livelihood problem of housing is almost resolved, other social problems will not become too serious. This does not only apply to the post-80s, but ordinary citizens as well. Regarding questions about pricing of HOS flats, forward provision of uncompleted flats, increasing the ratio of white-form applicants, and so on, they are all administrative issues. We consider that the biggest problem is not about how to deal with these administrative issues. The implementation of administrative measures is not the most important issue. If the Government's policy is properly formulated in general, we will no longer need to hold discussions on the same subject once every one or two months. Even so, the Government is indifferent to the views expressed by Members, and it is like we are talking to a wall. Now that the Chief Executive has said that an announcement would be made in the Policy Address in October, I hope he will not only give the green light to the resumption of the HOS, but also conduct a comprehensive and overall review on the Government's land and housing policies.

Thank you, President.

MR WONG KWOK-KIN (in Cantonese): President, we are discussing the resumption of the Home Ownership Scheme (HOS) today. If my memory serves me right, we have already discussed the same subject several times, or at least three times, in the current Legislative Session alone. On the one hand, it reflects that a consensus on resuming the HOS has already been reached by both the Legislative Council and the community at large; and that, on the other hand,

the Government has yet to respond to the demand of the public with regard to its housing policy, such that many citizens belonging to the sandwich class as well as the lower and middle classes cannot work and live in contentment. Therefore, the Federation of Trade Unions (FTU) supports the resumption of the HOS expeditiously so as to help relieve the housing difficulties faced by the public.

President, as the Government has always said, the current property market in Hong Kong is at a highly unusual state. It is because in recent years, the property market has largely been influenced by external factors, including the low interest environment caused by the policy of "quantitative easing" in the United States, as well as the overflow of hot money in the international environment. The influx of external capital into the market has driven up property prices which have gone out of reach with the affordability of local citizens. The increasing property prices have triggered off public discontent, and as far as we can see, public discontent has been fuelling.

President, notwithstanding the many measures adopted by the Government earlier to stabilize property prices, such as increasing supply, tightening mortgage lending, levying a special stamp duty and even introducing the My Home Purchase Plan, all these measures are, as far as we can see, "showy tricks" lacking in actual effect. Property prices still register a sharp increase of 9% in the first quarter of 2011, and since March, the overall level of property prices has been 3% higher than that in 1997. It has been proven by facts that the Government's measures have failed to halt the rising trend of property prices. Instead, prices continue to increase again after the market has adapted itself to the Government's measures. As a matter of fact, in face of increasing property prices over the past two years, the community at large has forged consensus on two points. The first one is resuming the HOS, and the second is to give priority to local citizens in home ownership. At the meeting of the Legislative Council last week, I raised a question with the Secretary about whether the Government had assessed the impact of abundant capital from external sources entering the local property market. Regrettably, the Secretary's reply was that the Government did not have any data. Moreover, the Government had not assessed the amount of capital from external sources that had already entered the local property market. Against this background, the people demand that the HOS should be resumed and that the property market in Hong Kong be segregated into a local market and a market for external capital. These demands are in fact very reasonable because people only want to acquire their own homes, they do not want to get involved

with the risk of an asset bubble. They do not want to engage in speculative activities nor get the hot potato.

President, I am glad to notice that the Government has loosened up its position on resuming the HOS lately, because since its implementation in the 1970s in the last century, the HOS had benefited 300 000-odd households in the middle and sandwich classes by satisfying their need of home ownership. Moreover, implementing the HOS does not mean crushing the property market. As we can see from the existing data, property prices have keep on rising. During the peak of the property market in 1997, the supply of HOS flats had no major impact on the market. The property market only tumbled in the aftermath of the SARS pandemic. The HOS was then put to a halt in order to prop up the market. Recently, as news about resuming the HOS got out, the market indeed had certain reactions, but it was not panicky. Thus, it is clear that the HOS presents a right direction in regulating the market. However, I am utterly dissatisfied with the subsequent remarks made by Government officials that it took seven years for resuming the construction of HOS flats because by taking such a stance, the Government is just procrastinating instead of sharing the public's urgent concern. This creates a very bad feeling for members of the public psychologically because they see it as a sign that the Government is afraid of real estate developers and is only concerned about propping up the market. Hence, I propose in my amendment that the Government should expeditiously undertake preliminary work for resuming the construction of HOS flats, including re-establishing a framework for resuming the construction of HOS flats and identifying suitable sites for planning purpose. My intention is that the Government should undertake preliminary work properly so that the next term SAR Government can work expeditiously to supply HOS flats.

President, the FTU published its recommendations on housing policy in a report entitled "安家樂業" (meaning living and working in contentment) two days ago. One of our major recommendations is the resumption of the HOS. We propose that "public rental housing (PRH) — HOS flats — private residential flats" should form a multi-level housing mobility ladder with HOS as the middle rung or the "revolving door" of the entire housing policy. In the FTU's recommendations, we propose a policy with "PRH as the backbone", that is, PRH should be the basic component of public housing in Hong Kong so that eligible persons with housing need can apply for allocation. In this connection, we suggest that the production target of PRH should be increased to over 30 000

units per annum so that the waiting time of PRH applicants can be shortened from three years to two years, and that the income limit of applicants should be increased so as to relieve the overall housing demand of lower and middle-income families as well as the sandwich class.

The second rung is the HOS. As widely known, the HOS serves the following functions. First, through moving to HOS flats, well-off PRH households can improve their living environment and their vacated PRH units can be allocated to other Waiting List applicants. Second, HOS flats can help resolve the housing difficulty faced by sandwich-class households which have exceeded the eligibility limits of PRH. Third, we consider that the HOS can, to a certain extent, regulate the conditions of the property market. All in all, our demand is that the HOS flats should be made available as a choice of home ownership to PRH tenants, sandwich-class households and even families of the middle and lower classes who have the means so that they can ascend the housing ladder from tenants to home owners. In terms of housing supply, we suggest that an initial production target of about 5 000 flats should be set in order to test the reaction of the market. We consider that this approach can ensure flexibility of the policy, help regulate supply suitably and minimize the impact on private market. At the same time, pricing of HOS flats should be based on the affordability ratio, price-to-income ratio, and so on, of eligible applicants so as to avoid the situation where successful applicants are being "enslaved" by home ownership. Moreover, as HOS is subsidized housing, we consider that stringent resale conditions should apply so that owners cannot make profits easily through the resale of their HOS flats.

President, the resumption of the HOS is the crux of a multi-level housing policy because it is the divider in the property market which clearly distinguishes between the investment market and the owner-occupier market. At the same time, it allows PRH tenants to achieve upward mobility in terms of housing. With PRH and HOS as the foundation and private housing as the highest level of the housing policy, the Government can maintain its market strategy of ensuring flexible supply and achieve the "revolving door" effect. Given the current imbalance in the market, we consider that it is high time the Government corrects its misconception of "big market".

President, lastly, we hope that the Government will implement measures expeditiously to resolve the problem of land supply so that the provision of public

housing will not be affected unduly. We hope that more can be done by the Development Bureau in this regard.

President, I so submit and support the resumption of the HOS.

MR CHAN KAM-LAM (in Cantonese): President, with property prices spiralling up in recent years, the demand for resuming the Home Ownership Scheme (HOS) has been heard time and again. The subject has also been discussed by the Legislative Council many times with two motion debates held in the past few months alone. First of all, the motion on "Enhancing the My Home Purchase Plan" was moved by Mr CHEUNG Hok-ming, and then the motion on "The inability of the Government's measures to help people acquire their homes" by Mr James TO. Home ownership has become a platitude in the Legislative Council. Regarding the present motion proposed by Mr Alan LEONG, we cannot find any new thinking or proposals coming from him to resolve the current housing problem. Rather, he just wants to make an issue out of this. Furthermore, we do not want to see anyone turning this motion debate into an occasion of hurling invectives, and thinking that this will resolve the problem.

Property prices in Hong Kong have been spiralling like an unbridled wild horse. In February, the overall price level of private residential properties has already surpassed the peak level in 1997, and is still going on an upward trend. In the first four months of this year, property prices have already increased by a staggering 11%. There are also signs in the market that property prices are increasing despite the reduction of transaction. Recently, a flat in Taikoo Shing was sold for as much as \$13,000 per square foot, which is the second highest record for the housing estate. Apart from private housing, transactions have been recorded successively for the sale of second-hand public rental housing (PRH) units at prices close to \$2 million. As recently as the end of last month, a unit in low-to-middle floors in Tin Ping Estate, Sheung Shui, was sold for \$1.93 million. Although property prices have somewhat slackened recently, they are still far beyond the affordability of the people. It is incumbent upon the Government to deal with the problem squarely.

As a matter of fact, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has, as early as 2009, cautioned the Government time and again to closely monitor the upward trend of property prices. At that

time, we had met the Financial Secretary jointly with other Members including Mr Abraham SHEK, Mr Jeffrey LAM and Mr CHAN Kin-por. We stated the view that the housing problem was not only related to the market and economics, it was also a major livelihood issue. If not handled properly, the problem was like a bomb planted in the community and hence, the Administration must keep the matter in view. We had also put forth a number of suggestions including resuming the HOS, selling of sites at irregular intervals and increasing the supply of small and medium-sized flats. We requested the Government to introduce measures to stabilize the property market expeditiously.

In recent years, the Government has gradually accepted some of our suggestions. By implementing the relevant measures, it is clear that the Government is also concerned with the matter. In his then policy address, Chief Executive Donald TSANG had, for the first time, stated his concern about the development of the property market. In addition to selling sites at irregular intervals, the Government has also increased land supply out of its own initiative. However, with major changes in the international economy, most notably the massive inflow of liquidity into Hong Kong as a result of uncertain economic outlook of the external environment, the local property market has become the first choice of investors for preserving the value of their capital. As a result, property prices have spiralled by multi-folds within a short span of two years.

However, the Government has not adjusted its housing policy in response to changing market conditions. It still insists on not interfering with the property market. Although the Government has continued to increase land supply, we all know that the sites put up for auction are basically high-value sites which would be scrambled by developers with exorbitant prices. As a result, property prices have deviated further from the normal course of the market. As a knock-on effect, prices of properties intended for ordinary citizens have also been pushed up to unaffordable levels. While the Government has said time and again that only luxury properties were expensive, we do not agree. We have always maintained that the market is interrelated. The spiralling prices of luxury properties will certainly drive up the price level of the entire market. The record transaction prices for old properties, tenement flats and PRH units can well substantiate our views.

President, the current level of hiking property prices in Hong Kong has already reached a very precarious level. As Hong Kong is a small and extrovert

economy, it is susceptible to external economic factors. Hence, it is all the more worrying that Hong Kong's property market may tumble all of a sudden as a result of changes in the international financial market. The higher the property market, the greater chance of being impacted in the future. The Government has already missed the best timing for regulating the property market. If the Government still takes no action, it will be just too late to revive the market should the bubble of the property market burst as a result of the impact from the external economic environment. The DAB has always adopted a pro-active attitude in urging the Government to respond to the demand of society.

Earlier, we put forth the suggestion of enhancing the My Home Purchase Plan (MHPP). Unlike the HOS, the MHPP can help aspiring home owners who are unable to save up for down payment within a short time to "board the train". This is particular applicable to the young generation as the MHPP can assist them achieve home ownership. Therefore, we suggest enhancing the MHPP so that it can meet the wider needs in the community. For example, we suggest that instead of the "rent-and-buy" mode, the MHPP should become "rent-or-buy" to allow greater flexibility and more choices for eligible persons with different levels of affordability. In addition, we also suggest that the production target should be increased; resale restrictions should be imposed to deter speculators and avoid the MHPP from becoming another haven for speculative activities; and the various procedures of the MHPP should be expedited so as to shorten the time between the planning and completion of projects.

Regarding the HOS, it is widely known that as a subsidized housing scheme, the HOS had been providing the option of home ownership for the grassroots besides PRH since its commissioning in 1978. It also played an important role of facilitating the turnover of PRH units. However, since the HOS was halted by the SAR Government in 2002, the grassroots could not acquire home ownership through the HOS, and the channel of moving from PRH units to HOS flats had also been cut off. As we notice, the number of well-off PRH tenants has doubled from about 11 000 when the Administration announced the cessation of HOS production to over 23 000 this year. The number has increased two times. In other words, PRH tenants cannot move to other private housing or HOS flats, and the waiting time of lower class households for allocation of PRH has been extended correspondingly. No doubt there has been increasing demand for producing more PRH units in recent years, and the resumption of the HOS is really unavoidable.

Will the resumption of the HOS have a direct impact on the property market, and whether the wave of negative equity will remerge? We consider that the primary objective of resuming the HOS is to assist people in home ownership, and not to suppress the property market or dampen property prices. We hope that by resuming the HOS, it will help regulate the property market duly and avoid the wave of negative equity caused by a market crash. Recently, the Chief Executive also indicated a possibility of resuming the HOS. In response, The Real Estate Developers Association of Hong Kong also said that most of its members supported the move. If resuming the HOS is supported by real estate developers who are most affected, why is the Government still so indecisive?

We consider that when resuming the HOS, the Government should also enhance various aspects of the former HOS policy such as the ratio between green-form and white-form applicants, so that flexibility can be allowed. For example, for HOS flats in urban areas, the eligibility criteria of white-form applicants should be relaxed so that local tenants living in tenement buildings or residents living in old districts are also eligible for application. As such, it will not only help improve their living environment, but also speed up the pace of urban renewal indirectly.

When determining the pricing, discount and alienation restriction period of HOS flats, all the former requirements should be reviewed accordingly. I recall that when the last batch of surplus HOS flats was sold in 2009, the selling price was set at 30% discount of market price. HOS flats in Hong Kong East were sold for as much as \$3.3 million. I think this price level was hardly affordable by the grassroots. Given that the current property prices have increased substantially when compared with those in 2009, the grassroots would find it even more unaffordable if HOS flats are to be priced according to current market prices. Therefore, the Administration should carefully review whether the pricing of HOS flats should continue to be linked with market prices, and whether the discount rate should be duly adjusted. We hope that resale restrictions could be imposed by the Government so that eligible persons can live a steady life in these HOS flats and these flats will not become a tool of speculation in the market.

Thank you, President.

MRS SOPHIE LEUNG (in Cantonese): President, resuming the construction of an appropriate amount of Home Ownership Scheme (HOS) flats is a consensus both inside and outside the Legislative Council. As property prices keep spiralling, this aspiration becomes more intense and the community hopes that the Government can respond by actions.

However, more than 800 000 households are living in private residential flats. While falling property prices of course offer a glimpse of hope for those who have yet to "board the train", these 800 000 owners will no doubt find the value of their assets "shrink". Some people worry that resuming the HOS will bring down property prices, which is understandable. However, the Government should neither act in an over-cautious manner nor use falling property prices as an excuse to put off the construction of HOS flats. I think having gone through the financial turmoil in 1997 and the SARS pandemic in 2003, both the Government and the people will be able to consider the matter from a more holistic perspective, so that the pace of HOS construction can be properly controlled in consideration of the impact on different walks of life.

Some people opine that sites earmarked for the My Home Purchase Plan (MHPP) should be converted for constructing HOS flats. I do not concur with this view. The HOS and the MHPP are two different types of schemes intended for different targets. With the novel "rent-and-buy" approach under the MHPP, it can help people save up for down payment and offer greater flexibility. While the public are not against the MHPP, they are just more familiar with the HOS. These two schemes can run in parallel. In the past, we have already made suggestions to the Government time and again to enhance the MHPP.

I consider that HOS flats, MHPP flats and public rental housing (PRH) units should all be constructed so as to provide different choices for different people. If an across-the-board approach is adopted and if the Government is forced to adopt the suggestions of certain people — for example, replace the MHPP which they dislike with the HOS or replace the HOS which they dislike with some other types of housing — without taking into consideration the aspiration of the public in areas of rental housing, housing and home ownership, it will not be conducive to resolving the housing problem of Hong Kong. I think we must seek common ground while reserving differences in order to really do good for the people.

There is indeed a need for the Government to formulate a long-term housing policy in Hong Kong. We should not switch between halting and resuming the HOS because of changing social circumstances. I want to point out in particular that while both the HOS and PRH are subsidized housing, they are different in nature. PRH is intended to provide for families with the greatest need, and the HOS is for home ownership or as we see in some recent cases, owners of HOS flats will even sell their flats for profits after paying the premium. Therefore, any planning made by the Government for constructing HOS flats should not affect sites earmarked for the production of PRH. Otherwise, it is unfair to members of the public waiting for allocation of PRH.

The HOS should have a role to play so that PRH tenants with the means can acquire HOS flats and vacate their PRH units for allocation to speed up the turnover. There must be a balanced development of PRH and HOS so that the housing policy of Hong Kong would be more reasonably structured. In the past few years, the number of well-off PRH tenants has been increasing. I think it is not their intention to keep occupying the PRH units, but as they can neither afford private housing nor have the choice of buying HOS flats, they must continue to live in PRH units.

Should the HOS be resumed today, the Government must of course examine the need of the target buyers carefully as this can affect the design and pricing of HOS flats. It is because with the proposed introduction of the MHPP, young couples may prefer its relatively flexible mode while families with children may prefer the HOS. The most effective way is to ensure their proper provision for the right kind of users.

Given the parallel provision of HOS flats and MHPP flats, as well as the inadequate provision of PRH units, land supply is in fact the biggest problem. But as I just pointed out, I do not agree that sites earmarked for private housing should be converted to constructing HOS flats because this will affect the supply in the private residential property market. If there is inadequate supply of land for constructing private housing, property prices will only go upwards and not downwards, making it even more difficult for members of the public to acquire home ownership. Must all the people of Hong Kong live in subsidized housing? Can society cope with such demand in reality? Do people really want to do so?

Undeniably, as history has testified, real estate developers are more efficient in land use than the Government. Their construction projects can be taken forward expeditiously such that flats can be built in three years or so, and not as long as seven years. In comparison, the Government's construction projects must go through tendering and consultation, with tedious paper work among a myriad of government departments internally. The Government must also stay vigilant for fear of falling into the black hole of collusion between the Government and businesses. Therefore, it is not surprising that six to seven years is required. Moreover, many people like to push the Government into black holes without obvious reasons now.

Private residential developments can facilitate economic activities of the commercial and business sectors in the community. Unlike the standardized design of subsidized housing, attractive shopping malls would often be built and special designs adopted for the outlook of buildings. Therefore, I have been urging the Government to provide a platform for small and medium developers so as to give them more space to facilitate development in the community and encourage diversified development of the real estate sector. If sites earmarked for private residential development are used to construct HOS flats, it does not really matter that government revenue from land sale will be reduced, but it would be most regrettable that the sites are wasted.

President, even I am at a loss as to why the Government is always citing difficulties in identifying land sites. It is incumbent upon the Government to ensure reasonable allocation of land resources for planning and development. Therefore, the Government should of course have the clearest picture about land supply in Hong Kong. What are the actual difficulties in identifying land sites? How many potential and disposed sites does the Government have on hand? Nobody has the answers except the Government.

I consider that such information should be disclosed so that the public as well as the Legislative Council would understand the actual difficulties involved. For example, is it really true that no change can be made to the use of land in country parks? Is it because such change of land use will be disapproved by the Town Planning Board? Is it because of considerations in transport, air circulation and ancillary measures for the industrial and commercial sectors? Moreover, is there any case where sites are being occupied by government departments for a long time without any development? If clear explanations for

these questions can be provided by the Government, we can then discuss the matter in a focused manner. I remember that in 2009, the Planning Department has studied a proposal to convert 29.5 hectares of industrial land for residential purpose. At that time, no objection was raised and we all hoped that if the proposal could be expedited, perhaps more land would be made available to construct all kinds of housing.

Housing problem has a significant impact on social stability, yet undeniably, there is no easy solution. The problem will definitely remain unresolved if no action is taken at all. Moreover, resuming the HOS cannot satisfy all the demands in society.

President, I think many subjects have been raised for discussion in this Council. However, I think we may over-simplify certain issues on the one hand, but on the other hand, the wording of our motions would sometimes be even more specific than government papers, for example, one Member suggested to construct 5 000 HOS flats while another Member suggested to have the flats completed by 2014. It looks as if they are the ones in control. As I see, Members of the Legislative Council have far less resources and information than the Government. Even though the Government keeps on pulling the wool over our eyes, we must urge the Government to provide us with more information. However, we should not assume for ourselves to be in a command position by ordering that certain things must be done within a certain period of time because we do not have the necessary information to understand the situation thoroughly.

If we suggest that 5 000 or 50 000 flats be built, what does it mean actually? I hope our role is that of identifying problems, calling for actions from the Government and making suggestions on major directions to the Government. As far as detailed arrangements are concerned, it is not something we can handle. Moreover, the consequence of policy blunders is not something we can bear.

President, I hereby suggest that the Government should give more consideration to the major policy directions of land supply and construction of HOS so that a good judgment can be made in terms of the overall housing policy. Thank you, President.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Members for their concerns about the public's housing and home purchasing problems, especially for their views on increasing housing units and land supply, as well as on the Home Ownership Scheme (HOS).

The views of Members as expressed in the original motion and the amendments cover the policy areas of the Development Bureau and the Transport and Housing Bureau. I will give a comprehensive response to the motion and convey the views of Members to the Development Bureau.

As I had said during the debate on the motion on the Government's measures to help people acquire their homes in the Legislative Council on 8 June this year, the Government understood the importance of living and working in peace and contentment, and we fully understood that people wanted to improve their lives and achieve upward mobility through home ownership. We also understood very well the public's worries about rising property prices and the difficulties in purchasing their first flats. The Government has always been listening with an open mind to the views of Members and the public on how to ensure the healthy and stable development of the private residential property market and help people acquire their homes.

I would like to say once again that, any form of subsidized home ownership schemes will only serve as a buffer. To tackle the current housing problems, we must comprehensively approach these problems from a macroscopic perspective. The property market appears extremely unusual, thus the authorities have been responding to the situation in four directions and through long, medium and short-term measures since last year. These measures include tackling the problem at root by increasing land supply, curbing property speculation, ensuring the transparency of the property market, and preventing the excessive expansion in mortgage lending. Regarding the measures for curbing short-term speculative activities in the private residential property market, the Legislative Council passed the Stamp Duty (Amendment) (No. 2) Bill 2011 for the introduction of additional stamp duty on 22 June. I am very thankful to Members for their support for this measure.

As a matter of fact, the measure for levying additional stamp duty to curb short-term speculative activities has been effective. According to the latest figures, the number of confirmor cases in April this year is only 72, 78% lower than the average of around 320 cases in the first 11 months last year (before the

Government's announcement of the introduction of additional stamp duty). The average monthly transactions from December last year to May this year is 9 250, 30% lower than the average in November last year (reflecting the market situation after additional stamp duty was proposed in October last year). The authorities will continue to closely monitor the market situation and take appropriate measures where necessary to ensure the healthy and stable development of the property market.

In the long run, the Government will increase land supply in response to market demand and address the home ownership problems at root. To ensure the healthy and stable development of the property market, the Government has set a land supply target. In the coming 10 years, it will provide sufficient land for the construction of some 20 000 private residential flats on an annual basis. Under the Land Sales Programme this year, a two-pronged approach is adopted to increase land supply: on the one hand, we make land available to the market mainly through the Application List System; on the other hand, we will take the initiative to introduce designated sites for sale. The 2011-2012 Land Sales Programme comprises 52 residential sites (including 47 residential sites on the Application List), for the construction of some 16 000 residential flats. In addition to residential sites from other sources, we expect that the sites for private residential housing development supplied to the market in 2011-2012 can be used to produce some 35 000 flats.

Moreover, the Financial Secretary has announced on 13 April this year that the Government decided to step up and take the initiative to sell residential sites. Between April and June, the authorities have taken the initiative to sell nine residential sites by auction or tender, and it is expected that some 3 000 flats can be produced. Around 70% of these flats will be constructed at three sites with flat size restrictions in Hung Hom and Tung Chung, so as to ensure an increased supply of small and medium sized residential flats.

Apart from private buildings, the Government adheres to its consistent subsidized housing policy, and provides rental public housing to low-income households who cannot afford private rental properties. Its objective is to maintain an average waiting time of approximately three years for applicants on the Waiting List. The Government abides by this public housing policy, the recent discussions on providing financial assistance to the public for home purchase will not change this policy.

Some Members have suggested building more public rental housing (PRH) flats and shortening the waiting time for PRH applicants. Basing on the Public Housing Construction Programme of the Housing Authority, from 2011-2012 to 2015-2016, some 75 000 PRH flats will be completed, that is, an average of 15 000 PRH flats each year. In addition to possession of flats expected to be recovered each year, it is expected that the number of flats to be produced can meet the target of an average waiting time of around three years for PRH applicants. At present, the average waiting time of PRH applicants is two years. Certainly, we will pay close attention to the public housing demand and extend the Public Housing Construction Programme year by year. We will also continue to review the situation and make suitable adjustments in light of latest supply and demand, with a view to ensuring that there is sufficient land for PRH development.

To help people buy their homes, I emphasize again that any form of subsidized home ownership schemes will only serve as a buffer. In the long run, we should start with the fundamentals and increase supply to provide people with the opportunities to buy affordable homes. In the face of short-term market fluctuation, the authorities consider it more desirable to provide a buffer to people who intend to and have the abilities to buy their homes in the long run. This can help them accumulate funds for home purchase within a certain period of time. In this regard, the Government has been working with the Hong Kong Housing Society (HKHS) to implement My Home Purchase Scheme (MHPP) premised on the concept of "rent-and-buy", to build "no-frills" small and medium-sized flats to respond in a targeted manner to the appeals of people who can afford long-term mortgage repayments but have not saved sufficient down payment due to the short-term property price fluctuations at the moment. They will then be able to accumulate funds within the tenancy period of up to five years, and they can also use a Purchase Subsidy equivalent to half of the net rental they have paid during the tenancy period for part of the down payment when they purchase the flat they rent or a flat in the private market within a specified time frame in the future.

The Government has already earmarked sites in Tsing Yi, Sha Tin, Diamond Hill, Tai Po, Tuen Mun and other areas aiming for a total of some 5 000 flats to be built under the MHPP. I would like to take this opportunity to brief Members on the progress of the MHPP. The first project under the MHPP will provide about 1 000 "no-frills" small and medium-sized flats at Tsing Luk Street in Tsing Yi. The flats will be completed by 2014 and applications for pre-letting

will take place in 2012. The building plans submitted by the HKHS to the Buildings Department have been approved, and the HKHS is inviting tenders for the development. The HKHS and the Lands Department have reached a preliminary agreement on the negotiations about the amendments to the land lease. We will explore with the HKHS ways to invite lease applications as soon as possible. Upon completion of the preparatory work, the HKHS will announce as quickly as possible the exact date on which applications for pre-letting of the Tsing Luk Street development project will take place and other details.

The second MHPP development project is in Sha Tin Area 36C near Siu Lek Yuen. Depending on the actual size of the flats, some 700 small and medium-sized flats can be constructed at the site. The exact number of flats can only be determined after further study. We will work out with the HKHS the details of the implementation of the Sha Tin development project as soon as possible. As to other development projects under the MHPP, we will try our best to expedite the preparatory work so that the projects under the MHPP can be carried out as soon as possible.

We will continue to listen carefully to the views of Members and the public on further optimizing the MHPP and if there is room for the optimization of the MHPP, we would be pleased to explore the matter, with a view to making improvements.

The overall picture will be of a cascade of housing options available to people with varying affordability. At the lower end are subsidized PRH flats for low-income families who cannot afford private rental accommodation and this is the foundation stone of our housing policy. At the next level are flats for sale to green-form applicants without the payment of premium under the Secondary Market Scheme. Furthermore, there are a lot of lower-priced flats in the private market, including HOS flats in the open market, and the flats to be built under the MHPP. In the private market, there are first-hand and second-hand flats to meet the diversified needs of those who can afford them.

The original motion and the amendments propose resuming the construction of a certain number of Home Ownership Scheme (HOS) flats as soon as possible, using the sites originally earmarked for the MHPP and allocating some existing land lots on the Application List for constructing HOS flats; providing uncompleted flats for application by the public, reviewing the

eligibility requirements for HOS applicants in the light of actual circumstances, and considering appropriately raising the income and asset limits for applicants; as well as increasing the ratio of white-form applicants.

Actually, the relevant proposals and issues cannot be discussed independently and we must give overall consideration to the housing problem, including the ways to use limited land resources to provide the public with housing options at different levels. It is more important to ensure that the annual construction of some 15 000 PRH flats on average will not be affected, so as to adhere to the objective of an average waiting time of around three years for PRH applicants.

I wish to stress that the provision of HOS flats is not a short-term policy, therefore we must consider the continuity of the policy, including whether there can be a continuous supply of land for constructing HOS flats while the supply of other kinds of housing remains unaffected. Concerning the resumption of the HOS, we have noted that the community has different views; thus we must consider the issue carefully. In this connection, the Chief Executive has stated when he attended the Question and Answer Session of the Legislative Council in May that he would respond to this issue when he announced the Policy Address.

As I have just said, the Government has set a very specific objective to ensure the healthy and stable development of the property market. In any case, it will press on towards this goal, in order to practically address the housing needs of the public.

President, I will give a summary response after I have listened to the remarks made by various Members in this motion debate. Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, this Council has debated for years on Hong Kong's housing problem. However, the more we debate, it seems that the worse the situation in Hong Kong has become.

President, I remember that we had to deal with the problem of "cage homes" in the past. But now, we are dealing with problems like "coffin homes" or "sub-divided units". As we all know, the latest home purchase affordability rate (that is, repayment-income ratio) is nearly 50%, up from more than 30%.

This means that while employees used to spend only 30% of their income on home purchase repayments, they now have to spend nearly 50%.

The incomes of employees have not increased. Even if they have, the money is not enough to cope with inflation. Besides, the repayment-income ratio is getting higher and higher. Average employees can no longer afford the present property prices. Leaving aside those with a monthly salary of \$10,000 or so, even those earning a monthly salary of \$30,000 to \$40,000 if someone earning a monthly salary of \$40,000 have to spend \$20,000 on repayments, can he afford it? The present property prices are spiraling out of control and are getting beyond the affordability of ordinary people. Under these circumstances, I do not understand why the SAR Government still refuses to resume the construction of Home Ownership Scheme (HOS) flats immediately. Just now, the government official still said that the matter has to be further studied.

We all remember what the Chief Executive said in Australia. He said that there was no housing problem in Hong Kong, and that the grass-roots population could live in public rental housing (PRH). However, he did not mention that many people are living in "sub-divided flats", or that a lot of people cannot afford such high property prices. He did not point out these facts. I wonder if the Chief Executive is regularly residing in Australia and does not know what the situation is in Hong Kong. He is completely out of touch and has no understanding of the situation in Hong Kong. No wonder his approval ratings keep falling.

As we know, his approval ratings have reached a new low, but they have certainly not hit bottom yet. They will get even lower later on. This is for sure. We do not want the Chief Executive to simply brush aside his low approval ratings. We want him to do something. One of the problems that we very much hope he could solve is the housing problem.

Even if the Chief Executive is willing to solve the problem, it sometimes makes one very angry. He did not listen even though the people kept telling him. However, once WANG Guangya said something, he immediately responded and softened his tone. I have no idea if he will announce the resumption of the HOS in October or when he attends the Legislative Council meeting next week. But once WANG Guangya opened his mouth, he softened his tone at once.

I observe that the Chief Executive is "smart" in this respect. His slogan "I'll get the job done" is quite right, since he knows who the boss is. Since Hong Kong people are not his boss, he knows nothing about their hardships. Since Hong Kong people are not his boss, his remarks can be totally divorced from the reality. Since Hong Kong people are not his boss, he can turn a blind eye to the housing problem in Hong Kong. Hong Kong people are not his boss, but when his boss opens his mouth

However, I am more worried when his boss opens his mouth. How come? It is because the Central Government is also trying to win popular support now. Having learned that Hong Kong people were angry about the housing problem, the Central Government tried to take advantage and hastened to point out that Hong Kong had a serious housing problem. Only then did the Chief Executive respond.

Is there still hope for Hong Kong if this kind of governance continues? The Chief Executive fails to properly handle the internal political problems. The Central Government has to put pressure on him every time before he moves. But when the people put pressure on him, he makes no moves. We are deeply disappointed by this.

After listening to the Secretary's remarks about resuming the HOS, I felt that he was just trying to procrastinate. He said a study had to be conducted and that what he worried most was that there would be no resources left to construct PRH units if we were to build HOS flats. It is totally illogical to oppose HOS to PRH.

Of course the Administration needs to construct PRH units. But it should not forget the My Home Purchase Plan (MHPP) which has been introduced. The ridiculous thing about the MHPP is that it has further pushed up property prices. The rental of flats under the MHPP is fixed according to the market rate at the time of the signing of the tenancy. Five years after paying the fixed rent, tenants will receive a subsidy equivalent to half the amount of the net rent paid during their tenancy as part of the down payment for the flat they are purchasing. If property prices keep rising, I do not think the people can afford them five years later. Thus, the MHPP cannot set people's mind at rest.

That is why the simplest solution is to use the sites originally earmarked for MHPP for constructing HOS flats. Those sites were not intended for

constructing PRH units. Nor am I asking the Government to convert sites for PRH to HOS sites. There is actually plenty of land now

President, if only the MTR Corporation Limited (MTRCL) was a government body, we could just build HOS flats as above-station projects, since the MTRCL owns large quantities of land. Unfortunately, the MTRCL has been privatized and is now a listed company, whose principle is to make profit. As a result, there is a reduced supply of land. It does not make sense for the Government to make the excuse that there is a shortage of land supply, since it can use the sites earmarked for the MHPP.

Secondly, apart from the excuse of a shortage of land supply (since the sites earmarked for the MHPP can be used), we also question PESCOD's remark that the construction of HOS flats would take seven years. While people are anxious to purchase homes now, PESCOD said it would take seven years to construct HOS flats. This was not the case in the past. It is not true that the construction of HOS flats would take seven years. I have not heard of anything like this. Of course, he might explain that the preliminary design work would take time. But actually, the design work has been completed.

In terms of land, I already said we can use the sites earmarked for the MHPP. That is why I want to know why the Administration said it would take seven years.

Finally, I want to say that if the Government does not solve this problem and help people to purchase homes, Hong Kong would not be stable. The most unfortunate thing now is that employees have become drifters. They have their rent raised once a year and are forced to move once a year. What kind of future do they have? Young people even say that they need not consider getting married now.

Thus, if the housing problem is not solved, it will become a time bomb for society that will explode sooner or later.

Thank you, President.

MR RONNY TONG (in Cantonese): President, the Chief Executive said in Australia that every Hong Kong resident has a "roof over his head". Taken leniently, his remark shows his indifference to Hong Kong people. If we were to be harsh, we would call him callous. When he said that "every Hong Kong resident has a roof over his head", he was implying that Hong Kong people's demand for the resumption of Home Ownership Scheme (HOS) flats and for more public rental housing (PRH) units is unjustified and unreasonable.

President, let us not discuss for the time being whether homeless people count as Hong Kong residents, or whether those living in "cage homes" or who call a "bedspace" their home can be said to have "a roof over their head". If we look at the figures, we will find that one third of Hong Kong's population is living in PRH units, and they have no chance of moving out now. If so, how can he say that "every Hong Kong resident has a roof over his head"?

President, our demand for resuming the construction of HOS flats is an important turning point for the housing policy. The main purpose of the housing policy is not to suppress property prices, but to help the people "live in their own homes" and improve their living environment. Thus, the relevant problem cannot be solved by saying that everyone "has a roof over his head".

President, before the cessation of the production of HOS flats, there was mobility in Hong Kong's housing for the grassroots. Each year, around 15% of PRH tenants would move to HOS flats, and subsequently from HOS flats to private residential flats. However, this kind of mobility has ceased to exist after the suspension of the HOS.

Those who demand the resumption of the HOS are not planning to speculate on HOS flats. Actually, if we look at the records, we will find that only 20% of HOS flat owners on average sold their flats by paying the land premium over the past 20 years or so — twenty-five years to be exact, if I remember correctly. This means that 80% of HOS flat owners treat their units as their "home". People demand the resumption of the HOS not because of financial reasons or simply because they want to acquire their own homes.

President, the biggest problem is that the construction of HOS flats is a housing policy. I am sure the Government also wants Hong Kong people to have a good living environment. Even though one third of Hong Kong's population is living in PRH units, the eligibility criteria for applicants for PRH

are still very strict. The Secretary has more than once explained the commitment of "maintaining the waiting time at three years" to this Council. Actually, he means that applicants can choose a PRH unit for the first time within three years. However, whether they are young or elderly applicants, they have to wait on average for more than three years before they will be allocated a unit.

President, the second problem is the high property prices. Earlier, Mr PESCOD publicly stated that building HOS flats would not help, since it would take seven years to construct the flats. Just now, I said to colleagues that I wondered where the figure "seven years" came from. When technology and society was not as advanced as now, it only took three to five years to construct HOS flats. Now, when technology and society have become more advanced, the construction time is even longer.

However, this is not the question. The question is the quantity. Would the resumption of the HOS affect the market prices of private residential flats? It would not. It is a matter of the psychology of the market. When people continue to make the housing bubble bigger today, even though people find the per-square-foot price of \$10,000 exorbitant, why would they still buy the relevant units? The reason is that even though they find the per-square-foot price of \$10,000 exorbitant, they believe that it would rise from \$10,000 to \$20,000, or to an even higher level in two or three years. In other words, they do not think they will lose money.

When buyers chase after the housing bubble, the Government really needs to send them a healthy and direct message. Not only should the Government tell them that the housing bubble may burst, it should also tell them that the supply of middle and low-priced units is bound to increase, unaffected by the private residential market. This means that their property prices will not be linked to the prices of private units. If the Government takes some users off the market, it will directly affect how buyers see the trend of property prices. Thus, if the Administration announces the resumption of the HOS, I believe it will immediately have a reasonable effect on property prices.

President, although we have talked ourselves dry demanding the resumption of the HOS, in the end If the Government really takes people's concern and wishes seriously, it should know that they are "concerned" about the too rapid rise of property prices, and their wish is to "live in their own homes".

I hope the SAR Government will change its stance and expeditiously respond to the demands of the community and the Legislative Council.

MR JEFFREY LAM (in Cantonese): President, property prices have risen sharply recently, and many people estimate that they have increased by 12% to 13% in the first half of this year. Those who want to buy their first homes cannot afford to do so. Even middle-class people or professionals earning a good income may not be able to buy the flats they want. Thus, the call in the community for the resumption of the Home Ownership Scheme (HOS) has become increasingly clear.

I agree that property prices are very high now and resuming the construction of an appropriate number of HOS flats is a way of helping people to buy their first homes. However, the resumption of the HOS involves enormous public resources, such as land and public money. Moreover, many details have to be considered, such as the number of units to be built, where to build them and where to find the sites.

Even though I agree that the Government should resume building an appropriate number of HOS flats expeditiously, I do not think it should make the decision hastily. The specific details of resuming the HOS need to be studied carefully. If it is carried out hastily, it may not be able to achieve the intended effect.

We cannot deny that the prices of HOS flats and the demand for them are easily affected by the overall property market and economy. As you probably remember, the financial crisis of 1998 and the financial tsunami of 2008 and 2009 were followed by an economic downturn. Property prices fell and the sales of HOS flats were greatly affected. In the end, some 3 000 surplus HOS units sold sluggishly, and some 1 300 units were left unsold.

President, property prices are now at a high level. If the Government decides to resume the construction of HOS flats today, I believe they would take three years or several years, no matter how quickly they are built. The Government said that it would take seven years. I do not think any of us knows what the property market and economic environment will be by that time.

Recently, some commentators pointed out that increase in interest rate is imminent, and there may be adjustments in the property market. If HOS flats are put up for sale when property prices fall, will their sales be affected? Will those who buy HOS flats become victims of negative equity? Once there were a large number of people with negative equity in the community, they would certainly have some impact on social stability. I do not think this is something that Hong Kong people and the Government wish to see.

President, if we are to resume the HOS, the Government should carry out careful planning expeditiously. Now, people are unanimously calling loudly for the resumption of the HOS, and different numbers have been suggested, from 2 000, 3 000 to more than 10 000 flats. Which is the appropriate quantity? Even if we build HOS flats now, can we totally solve the current problem of high property prices in Hong Kong?

With regard to the number of HOS flats to be built, it is not the more the better. The pricing of the flats should also be flexible and must be in keeping with the market conditions when they are completed. We also have to consider whether to further restrict the re-sale of HOS flats. For instance, they should only be sold to eligible residents, so that HOS flats will not be used for speculative purpose to make profit.

President, resuming the construction of HOS flats is only one way of helping people to buy homes, and can only meet the needs of some Hong Kong residents. No matter how the asset and income limits are set, there will always be people who are ineligible. Thus, the Government should continue to increase the supply of residential sites, in order to stabilize property prices and adjust the housing supply, rather than allocate disproportionate resources to HOS flats.

President, as the industrial environment in Hong Kong changes, many industrial buildings have low usage and might even be left vacant. About two months ago, Economic Synergy proposed to the Chief Executive and the relevant Policy Bureau that the Government should allow some eligible industrial buildings to be used for residential purpose, and be converted into small and medium-sized units or "flats with limited floor areas". They can be industrial buildings located in areas with good transport facilities or districts not affected by industrial pollution.

Moreover, we note that many industrial buildings are located in or near urban areas, with good transport facilities. If they are to be converted as small and medium-sized residential units or "flats with limited floor areas", I believe they will be welcomed by the public.

I have written articles in newspapers about this suggestion, and have received responses from many people who agree with it and think that it is feasible. However, if individual owners of industrial buildings want to apply to change the land use, it is a lengthy process and the applications will not be approved easily. Thus, I hope the Government will respond actively and expeditiously revise the relevant policy, and the Town Planning Board should expedite the processing of the relevant applications.

In my view, the Government should deal with the problems with a new mindset. For instance, it can choose to convert a suitable industrial site to residential use, and encourage owners to rebuild. The Administration can also consider imposing conditions such as "limited floor areas" and "limited quantity" to ensure that the rebuilt residential units are sold at reasonable prices and cater to the home purchase needs of Hong Kong people.

People have different housing and home purchase needs. Resuming the HOS alone will not solve all the problems. I believe that through various measures such as increasing land supply, resuming the construction of HOS flats, optimizing the My Home Purchase Plan and building public rental housing, the Government will be more able to fulfil people's needs and dreams in terms of housing.

President, these are my remarks.

MS MIRIAM LAU (in Cantonese): President, the per-square-foot price of flats in urban areas now often exceeds \$10,000. Even in the New Territories, the per-square-foot price is \$5,000 to \$6,000. This is far beyond the affordability of young people in general, or even middle-class households. Thus, the difficulty of ordinary people in purchasing homes is certainly one of the major issues that have aroused concern in all quarters of society. Moreover, there are undoubtedly many views in the community that the problem of the property

market fever and the difficulty of purchasing the first home can be solved by resuming the construction of Home Ownership Scheme (HOS) flats.

The Liberal Party is not against resuming the construction of a suitable number of HOS flats. However, can the resumption of the HOS be the sole solution to the prevalent problem of the property market fever and the difficulty of purchasing the first home? It takes quite a long time to plan and construct the new HOS flats. It seems it is too far-off to solve the immediate problem.

That is why the Liberal Party arranged to meet with Secretary for Development Mrs Carrie LAM this Monday to reflect our views about alleviating the housing demands. In our view, land lots should be granted regularly every year for the construction of 12 000 "flats with limited floor areas", and the flats completed on sites with flat size restrictions should only be sold to Hong Kong residents who are first-time home buyers. This will help to separate the local user market from the investor market to protect the home purchase rights of local people.

The flats with limited floor areas for local first-time home buyers are restricted to Hong Kong residents who are first-time home buyers. These flats which are not too large and HOS flats will have very similar buyers. The greatest difference between them is that the Government will not have to intervene in the property market again, and buyers can choose the units suited to their needs on the free market. Since these flats cannot be easily resold to make profit, they can be sold to first-time home buyers at reasonable prices, thereby solving the problem of the difficulty of purchasing the first home.

Moreover, since those units will be built on existing sites by private developers, they will be available for sale more quickly, definitely sooner than the seven years that the new HOS flats would take to complete at the earliest, according to government officials.

We also note that a scholar (Dr Billy MAK, Associate Professor at the Department of Finance and Decision Sciences of the Hong Kong Baptist University) has reminded Hong Kong people of the lesson of the 60% drop in property prices after 1997. At the time, things were so bad that as many as 43% (that is, about 1 000) of HOS flats remained unsold. The construction of HOS flats takes time and no one can predict what the market conditions will be in a few years' time. If the property market slumps and is followed by a wave of

forfeiture of down payments for newly completed HOS flats or sluggish sales of many surplus HOS flats, would people question the misuse of public money again?

In our view, since the Government still has two sites with flat size restrictions (the Ex-Tai Wo Hau Factory Estate in Tsuen Wan and Wang Yip Street West in Tung Tau, Yuen Long) that have not yet been put up for tender this year, it can add the condition "to be sold to Hong Kong residents who are first-time home buyers only" to the tender conditions for these two sites as a trial to test the market's response.

President, we also know that it is very difficult to identify land, especially land in urban areas. That is why we suggest that the Government should allow developers to change the land use of vacant industrial buildings. After paying the land premium, they can use the industrial sites for constructing residential units with limited floor areas to be sold to target buyers, so that people would have more opportunities to choose units suited to them.

However, before the decision to resume the HOS is made, we also note that there are different views in the community about the specific details. For instance, should we just duplicate the old HOS mode? Are HOS flats intended to help people buy their first homes, or to help them make investment? Should there be any change to the quota ratio of target buyers of the newly constructed HOS flats, such as the ratio of white-form applicants? Should the application still depend on luck, that is, by drawing lots? Moreover, should the resale restrictions be tightened?

There are all sorts of views in the community with regard to these issues. If one acts hastily without consulting the public, one might do things wrong with good intentions. It is just like making clothes for someone without taking the measurements. The clothes might end up not fitting, and will not be to someone's liking even if they are given free.

Some Members suggested using the sites on the List of Sites for Sale by Application or those earmarked for the My Home Purchase Plan (MHPP). In the Liberal Party's view, if the sites on the List are used, we have to consider whether this will reduce the supply of private residential units, which would further push up the heated property market. Moreover, the MHPP is intended as

another means to help people purchase homes, and should not be sacrificed for the sake of the construction of HOS flats.

All the issues mentioned above will decide the success or failure of future HOS flats. Thus, while the Liberal Party does not oppose the resumption of the HOS today, we think the Government should not act hastily or work behind closed doors with regard to the specific details or arrangements of resuming the construction of HOS flats. Instead, it must canvass public opinion carefully before making a decision. In any event, we hope that the Chief Executive will give a full account on the resumption of the HOS or how to tackle the problem of the overall property market in Hong Kong in his Policy Address in October at the latest.

President, I so submit.

PROF PATRICK LAU (in Cantonese): President, Hong Kong people slave away for years to realize the dream of living in a comfortable home. Among the basic necessities of life, housing is the issue that plagues Hong Kong people the most.

Hong Kong is actually a blessed place. From what I see, it seems that Members from different parties have no great objection to the motion "Immediately announcing the resumption of the construction of Home Ownership Scheme flats" moved by Mr Alan LEONG today.

Actually, there is one word in the motion that interests me greatly, that is, the word "immediately". What does "immediately" mean? We have to analyse the question of time. First, I have to declare that I had been a member of the Housing Authority for several years. However, I have relinquished this responsibility this year. So I no longer have this burden.

I want to discuss the question of whether we can start construction immediately after Members have made such calls. Of course we cannot. As we have said before, from the time works begin on a construction site to the time of completion, it will take at least three or four years. On the other hand, regarding the question of "immediately", some Member said just now it is a matter of psychology. If it could be announced "immediately", it would give

those young people who cannot afford private residential units, especially the sandwich class above the grassroots who are not eligible for public rental housing (PRH), a chance to purchase their own homes.

My view is that the grass-roots population has PRH. Even if they have to be on the Waiting List for three years, they still have the hope and the chance of moving into PRH. This is very important. Actually, we can only complete about 15 000 PRH units each year. This is the current planning. But the important thing is that we will have an additional 15 000 units due to the "revolving-door" effect. Hence, there are 30 000 units on the market each year for application by those eligible for PRH. Thus, the waiting time can be maintained at two to three years.

However, the question is, if those who do not belong to the grassroots do not pass the means test, there are no better solutions to their housing problem. Below is my answer to Mr LEONG. I would like him to consider it and the Secretary to listen too. We should not doubt PESCOD. What he meant could be that we only start planning and identifying sites now. After a long process of looking for sites for construction, and another one or two years to do the planning, we still have to build roads and level the construction site. This way, we would certainly waste we cannot say "waste", since these things must be done. It would at least take four or five years before construction can begin. So of course it would take seven years. This can be projected easily.

Many people say that I am the expert. How come I do not say anything? This is the question. Mr LEONG said "immediately", but how could it be done "immediately"? I can offer him a suggestion. Actually there are HOS flats now. But where does the problem lie? The problem lies with the land price. To be frank, the Hong Kong Government has low tax revenue. Where does its revenue come from and how come it is so rich? The Government's wealth comes from the land price. However, it seems that not many people have mentioned this today. The Government always denies that it adopts a high land price policy. Indeed, it is not the land price that is high, but the market price. The market price leads to high land prices. The land always goes to the highest bidder. Thus, the land price is the problem that has to be solved.

The question is if the present HOS flat owners do not want to keep their flats, and want to resell them on the free market through the "revolving door",

they have to pay the land premium before they can sell them on the market. This arrangement is unsatisfactory, since it will create another market. These HOS flats will become private residential units, since their prices will follow those of private flats. As a result, there will be two markets.

(THE PRESIDENT'S DEPUTY, Ms Miriam LAU, took the Chair)

What we need most is a PRH housing market and a private residential market. That is why I am not worried who the buyers are. People all over the world can come to purchase flats. Mainlanders now come to purchase flats, and the Japanese also come to buy flats in Hong Kong due to the earthquake. This does not matter, because Hong Kong is making money on it. Our coffers receive a lot of additional income because they come to purchase flats. If this money is put to good use, it is no problem for the people.

However, HOS flats can now be sold on the free market after the land premium is paid. This would not benefit those with housing needs. I am referring to the sandwich class, who cannot purchase flats at a lower and more reasonable price. Thus, I suggest that the Government should stop this practice immediately. All HOS flats may not be sold on the free market and must be resold to the Housing Authority, or to white-form or green-form applicants with real needs. This way, they can immediately purchase HOS flats Mr LEONG, there is no other way to produce HOS flats "immediately", since they cannot be completed instantly.

Just now, I did not hear the Secretary's answer to this question. When the Secretary was talking about the My Home Purchase Plan (MHPP), he did not mention the land cost at all. Just now, I asked what the land cost for the MHPP was several times, but the Secretary did not answer. Maybe I did not hear it. Even though I listened very carefully, I did not hear it. If the land premium is not yet paid under the MHPP, I do not know how people can rent first and then buy if the market rent is very high in future. It is not feasible at all. Many Members said that it is the least secure plan. I hope this is not true. I hope those Hong Kong residents with real needs can buy their homes (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

PROF PATRICK LAU (in Cantonese): and can afford their homes. Thank you, Deputy President.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, does Hong Kong have a housing problem? I believe this question is not hard to answer. Senior government officials can easily find the answer by visiting Sham Shui Po, Tai Kwok Tsui and Kwun Tong, or by interviewing the middle-class to see how they go about saving on food and clothing and how much money they have to spend on mortgage expenses each month.

The simplest way to solve the housing problem of people in the middle-class and at grass-roots level is to increase the supply of small-and-medium public rental housing (PRH) units. The resumption of the Home Ownership Scheme (HOS) and the construction of additional PRH units should be implemented at the same time, so as to help different groups of people own their homes and live and work in contentment. However, I will only focus my discussion on resuming the HOS today.

First, we have to handle the number of flats to be constructed in resuming the HOS. As many colleagues have mentioned earlier, the construction of 5 000 flats in the first stage is actually a very reasonable figure. For the general public, it is true that the more flats to be constructed, the better; but honestly speaking, we should also take into account the acceptability of the market, so as to avoid a slump in the property market. If the properties of the people become negative assets, the economy of Hong Kong will also be hard hit, and the society as a whole will suffer.

As regard the pricing of HOS flats, it has always been linked to the market price, at about 60% to 70% of the market price in the past. Given the close-to-crazy situation of our property market, in which the per-square-foot price of a flat will very often amount to tens of thousands of dollars, if the HOS flats are priced against such a benchmark, the price will be so high that HOS flats will be like castles in the air which are beyond the reach of most people. As such, it is necessary for the Government to set the selling price of HOS flats on the basis

of the people's affordability, so as to ensure that they can purchase the flats at a reasonable price and prevent people from being reduced to mortgage slaves.

Another problem which has arisen is the eligibility of HOS flats applicants. The existing monthly income limit for single white-form applicants is \$13,500 with assets not exceeding \$265,000 and that for families of two to eight people is a monthly income of \$27,000 with assets not exceeding \$530,000. I think such figures are clearly too low. So, let us try to do some computations.

Take the case of a single person, the asset limit is \$265,000. If the initial deposit is set at 30% of the property price, it means that the applicant will only be able to purchase a \$880,000 flat. However, if we take a look around at the existing private residential units, we will find that the price of a 300-sq ft flat in the urban area or even in the New Territories will easily amount to \$2 million. If the price of a HOS flat is set at 60% to 70% of the market price, it will, at least, amount to \$1.4 million. Thus, it is virtually impossible for the applicant to purchase a flat at this price.

As such, I think that in addition to slightly adjusting the income and asset limits of applicants, the Government can also consider to delink the sale price of HOS flats from that of private residential flats, and set the sale price on the basis of construction costs instead. For example, based on the existing construction costs of about \$2,000 to \$3,000 per square foot for a "no-frills" ordinary flat, the sale price for a 300-sq ft flat should be between \$600,000 to \$900,000. I think this sale price is more reasonable for it is closer to the purchasing power of the grassroots.

Some people comment that as HOS flats can be sold freely after paying a premium, it will give people an impression that public funds are used for helping people to invest. In fact, since the sale price of HOS flats is not set at the market rate, if the HOS flats can only be sold subject to the payment of a premium or if the HOS flats can only be sold back to the Government, the number of speculative sales of HOS flats can be reduced.

As regards to the issue of the ratio between white-form and green-form applicants, I think we can make references to the ratio which the Housing Authority adopted when it offered unsold HOS flats for sale last time. The

original ratio between green-form and white-form applicants was eight to two, and though the ratio of white-form applicants has been significantly increased to 40% last year, the flats was still oversubscribed by more than 11 times, showing an acute demand for this type of residential housing units.

Deputy President, I very much agree with what Prof Anthony CHEUNG Bing-leung, Member of the Executive Council pointed out earlier in his article that the housing policy of Hong Kong has already reached a critical point where a price must inevitably be paid for the implementation of any policy. At this stage, the Government cannot just resign itself to doom, and continue to adopt the civil service mentality of "less work, less error; no work, no error" in dealing with pressing social problems. If we act boldly, the property market may slide a little, and speculators in particular, may suffer losses, but we should keep the general goal in sight and it is only right that we should take care of the interests of most people in the community.

Finally, I would like to talk about the news of the resumption of the HOS, to which the Government has maintained an ambiguous attitude so far, and some people said we will hear about it in the Policy Address to be announced in October. I think that this practice is very irresponsible and will only lead to more and more serious speculations. I hope the Secretary can state his position today and tell the Legislative Council and the public that the Government will resume the construction of HOS flats, for the earlier we know, the earlier we can make more suggestions for perfecting the details, and let the public fulfil their dream of home ownership at an earlier date.

With these remarks, Deputy President, I support the motion.

MR JAMES TO (in Cantonese): Deputy President, I recently re-read several articles written by Prof Richard Y C WONG of the University of Hong Kong. He belongs to the Chicago school, but I heard him talk about an idea some 10 years ago, that is, all public rental housing (PRH) units should be given to current occupiers of the flats. Even I was taken much aback by this idea. That was what I heard from him some 10 years ago, and he has also written a number of long articles over the past few months, focusing on the proposed solutions to problems relating to the supply or demand of housing in Hong Kong. A proposal which I find very daring is to assess the premium on the basis of the

original discounted purchase prices of the existing Home Ownership Scheme (HOS) and Tenants Purchase Scheme (TPS) flats. Frankly speaking, this is a "generous" proposal, which allows owners of HOS flats to own the flat by just paying a small amount of premium, and several hundreds of thousands of HOS flats will immediately be released into the market for circulation. His proposal can solve some problems of mismatching of housing resources. I have held in-depth discussions with Prof WONG on his proposal and find it worth bringing up for detailed discussions.

The first type of possible mismatch mentioned by Prof WONG may involve elderly people. After tens of years, the children of some elderly people living in HOS flats may have grown up and moved out, and elderly people actually do not need so much space. As such, if they possess full ownership of the flats, they can rent out some rooms, and if the flats are in the urban or extended urban areas, more housing resources are immediately available to meet the needs of those who are now living in sub-divided units, cubicle apartments or other adverse or dangerous environments. They can then live in safe HOS or TPS flats.

The second mismatching problem that can be solved under this proposal is that some HOS flat owners can sell their properties if they can acquire full ownership, and then spend their twilight years on the Mainland.

The third situation is, HOS flat owners can sell the flat and use the proceeds to buy a smaller TPS flat. They can afford to buy a TPS flat, even if it is located in a remote area. After buying the flat, they can save up the remaining amount to be used during their twilight years, that is, the so-called "funeral fund".

The fourth situation is it seems that the reverse mortgage scheme will be launched next week. If people possess full ownership of their flat, then apart from living in the flat, they can also submit their flat for reverse mortgage. For example, for a \$2 million or \$2 million-odd flat — assuming that the owner will withdraw living expenses from the scheme for the rest of his life — he can get about \$4,000 to \$5,000 per month under the reverse mortgage scheme, and at the same time, he can also spend his twilight years in the flat. This practice can cut down the expenses on CSSA payments, or other allowances and welfare.

Finally, Prof WONG thinks that under this practice, a large number of units in the urban or extended urban areas as well as several hundreds of thousands of flats of varying sizes and age can immediately be released. Even if only one fifth of property owners act in this manner, several tens of thousands of units can be immediately released, the increased supply of flats in the market can meet the needs of people to acquire property or rent flats.

Deputy President, I have been talking about the views of Prof WONG and I personally think that these views should be seriously considered. Actually, he has one other view which has not been written down in detail, that is, to give away all existing PRH flats to the tenants or turn them into TPS flats at very cheap prices. This practice can immediately unlock several hundreds of thousands of flats — especially since many of the PRH flats are located in urban or extended urban areas.

Deputy President, this is a major surgery, and careful considerations have to be made if it were to be implemented. However, I think that this is a very attractive major surgery which should be considered. If our sunset Government with a term of office of one year is not interested in considering the proposals, I think the potential Chief Executive, or those who are willing to consider and care about the long-term housing problem of Hong Kong should study this proposal in detail, with the objective of providing us with a solution to solve the long-term housing and land supply problem, as well as the problem of mismatching of housing resources, so as to attain a bright prospect in future.

Deputy President, though the views which I have put forward this time are not my own, I think the idea is very attractive and it also involves matters of a very high and profound level. I hope that people with high aspirations and determination, in particular, professors or other people would further expand the proposals. I also hope that people who are not living in HOS or PRH flats can carefully consider whether the scheme is attractive enough or whether it has offered enough incentives. *(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Speaking time is up.

MR CHAN HAK-KAN (in Cantonese): Deputy President, the full name of "HOS" is "Home Ownership Scheme", and I believe that home ownership is also the goal of many Hong Kong people. However, how many people can really achieve this goal in today's society? In fact, people who can now attain their goals are getting fewer and fewer; more and more people can hardly afford the current high rents, not to mention acquiring properties and "boarding the home ownership train". Actually, no matter how hard the young people or the middle class of today try to save up, and even if they can get more than 10% or 20% increase in salary, they may still be unable to catch up with the soaring property prices. Their wish for acquiring their own home is actually an unreachable dream. In the face of such heavy pressures on housing demands, the community and this Council hope that the Government can resume the construction of HOS flats as soon as possible.

As I agree with what colleagues have said earlier about the justifications, quantity and timing for the resumption of the HOS, I have no intention to repeat those views. I would only like to comment on the land supply, on the types of sites to be identified for constructing public rental housing (PRH) units or HOS flats. Some colleagues have quoted the saying of Mr D W PESCOT, the Permanent Secretary for Transport and Housing, at a meeting earlier that the construction of HOS flats would take seven years. This remark has immediately led to great public outcry. We have asked some professionals and they told us that if the Government really wanted to build HOS flats, the time required from design, construction to completion would be around three to four years, and it might not necessarily take as long as seven years. We think Mr PESCOT purposely made that remark to throw a wet blanket over the HOS policy, or even to cool it down. When I served as a Member of the District Council, many PRH and HOS flats were built in Ma On Shan, and I had the impression that from consultation of the District Council, commencement of works to completion and occupation of flats, it did not take as long as seven years, only four to five years were required at most. Therefore, if the Government is really determined to construct HOS flats, it does not have to take as long as seven years.

Of course, we also understand that under the existing social and political situations, people have a higher demand on living environment, and people will raise objections if we suddenly construct HOS or PRH flats in the vicinity of their residence. However, we can also see that there is such a need in the community as a whole. Perhaps, residents of individual small communities may have

different views, I think the Government can resolve this matter by means of co-ordination and communication.

Deputy President, I would like to quote an example. The Housing Department has recently identified three sites in the North District for constructing PRH flats — I must stress that the sites are earmarked for constructing PRH flats. However, the areas of the sites are so small that only three PRH blocks can be constructed on one site and one or two blocks can be constructed on the other two sites. I call this a "squeeze-in" method. Residents nearby would certainly be unhappy about the construction works, for they are worried that the works would cause noise or air pollution, and existing community facilities may be inadequate when more people move in and use the facilities. However, I would like to point out that the Government does not need to "squeeze-in" in constructing HOS or PRH flats, for we still have a lot of land which can be used for such purposes.

I am referring to the two sites in the North District selected by the Food and Health Bureau for constructing poultry slaughtering plants. Deputy President, I believe you may also recall that the construction of poultry slaughtering plants has been aborted and indefinitely postponed. I have inspected the two sites sometime ago and found that they have been left vacant for nearly five years despite the completion of the supporting works in the vicinity. There are access roads leading to the sites and site formation works have been completed. Here, I would like to show you some pictures. According to our preliminary estimations, some 30 000 HOS and PRH flats, with a total of six to seven residential buildings can be built on these sites. As such, why do we not utilize such a large piece of land, and why should we insist on harassing residents by constructing buildings adjacent to their homes?

Deputy President, just now I watched the instant news and saw Chief Executive Donald TSANG inspecting the Fo Tan cottage area. He said he would like to examine how industrial land could be converted for constructing PRH or HOS facilities. I think this approach is commendable for he no longer adheres to the existing "squeeze-in" construction method. What I would like to say is that, I think not only the Chief Executive should conduct site visits, officials of the Transport and Housing Bureau responsible for the relevant work, either the Secretary or Under Secretary, should also examine comprehensively to see if there are any lands available in our community for constructing HOS flats

or PRH units. Only by doing so can the existing time required for constructing HOS flats be greatly reduced. Some people have commented that if HOS flats were to be constructed, certain sites formerly reserved for building PRH units might be used, thus affecting the waiting time for those on the PRH Waiting List. However, I think there is still room for discussion with regard to this viewpoint. As the HOS is a ladder for the public to move from PRH to private housing, it provides a chance for PRH residents to improve their living environment. Moreover, the resumption of the construction of HOS flats can also speed up the turnover of PRH units and reduce the number of PRH units to be built, thus alleviating relevant land demands.

Some figures indicated that the number of well-off tenants has actually increased from 11 000 households in the past to 23 000-odd this year. If there is a greater supply of HOS flats, most well-off PRH tenants will be willing to purchase HOS flats, thus releasing more PRH units for other needy persons.

Deputy President, I understand that the construction of HOS flats is not the only solution to the housing problems of Hong Kong people, but the development of our property market has already divorced from reality since the cessation of the construction of HOS flats. I hope that the Government can make a firm decision regarding the resumption of the HOS as soon as possible, so as to give us a clear answer, and we can then focus our discussions on the details for putting HOS flats on the market. Thank you, Deputy President.

MR IP KWOK-HIM (in Cantonese): Deputy President, how the remarks made by the Chief Executive at his interview with the foreign press in Australia should be interpreted is subject to personal preferences, and people can interpret the remarks to fit in with his or her needs. Apart from the statement which Mr Alan LEONG quoted in his motion, the Chief Executive also said that the increase in Hong Kong's property prices were very alarming, and such remarks were commonly interpreted as the signal for the resumption of the Home Ownership Scheme (HOS) in Hong Kong.

In order to meet the housing needs of the people, the resumption of the HOS should be a long-term housing policy which must be complemented with a long-term land supply strategy. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has proposed earlier that the Government should

conduct a study on releasing land adjacent to country parks for the construction of HOS flats. Our proposal has generated some discussions in the community, in particular, Mr Albert LAI, the Vice-Chairman of the Civic Party, has queried in a newspaper article that the proposal of the DAB was a "carefully calculated political statement". I cannot help but ask, what has this practical proposal of the DAB on increasing land supply got to do with political statement? I hope the Civic Party will not try to politicize every issue.

According to Mr Albert LAI, there were still a lot of undeveloped lands in Hong Kong which could be use for constructing HOS flats, he thus questioned the practical need of the DAB's proposal. In fact, the query of Mr LAI is similar to the queries of some people on the need to construct a third runway, claiming that the two existing runways at the Hong Kong Airport are not yet saturated. They are both ignorant and lack of vision. The DAB thinks that apart from resuming the HOS, the most pressing task of the SAR Government at the present moment is to carefully formulate a comprehensive land supply policy to cope with the situation, and to tackle the problem from a short-, medium- and long-term perspective.

The short-term strategy is to allocate some land from the Application List for building HOS flats, and if the Government can do so, then unlike what Mr PESCOD has said, the construction of HOS flats will definitely not take seven years. The medium-term approach is to explore ways for increasing land supply, which include releasing land adjacent to country parks, and adopting other measures, such as carrying out reclamation works in places other than the Victoria Harbour, development of rock caverns, and so on; and these measures can all served as a medium-term solution. In fact, the sustainable development of the resumption of the HOS policy has to rely on the replenishment of new land to the Application List after some land have been allocated from the List for constructing HOS flats.

Though more than 70% of the land in Hong Kong is undeveloped, the usage of many lands have been restricted and designated for specific purposes, such as country parks, agricultural lands and green belts. As pointed out by Prof Raymond SO Wai-man, Dean of the School of Business, Hang Seng Management College, the shortage of land supply in Hong Kong is mainly a result of planning. Prof Francis T LUI, Professor of the Department of Economics, The Hong Kong University of Science and Technology, also thinks that land supply can be

increased by freeing land designated as country parks in town planning. I very much hope that in addition to resuming the HOS, the SAR Government can also put forward a sustainable land supply strategy for extensive social discussion.

The success and failure of resuming the HOS depends on various factors, one of which is whether the policy objectives are appropriate. What is the objective of resuming the HOS: to solve the problem of some people who have difficulties in acquiring their homes or to curb soaring property prices? This question must be clarified for different policy objectives will give rise to different strategies. At present, about 45% of the people in Hong Kong live in PRH and HOS flats, while another 40% live in self-owned private properties. In other words, only 15% of people do not live in PRH flats and do not own properties, among them, some are waiting for the allocation of PRH units.

It is obvious that the policy objective for resuming the HOS is to solve the problem of people who have difficulties in acquiring their homes and not to curb property prices. We must understand that 40% of the people in Hong Kong have already owned properties, and the housing policy must also take into account the interests of these private property owners. If property prices drop drastically, it will inevitably lead to disastrous consequences and cause various problems, thus reproducing the nightmare of negative assets. In fact, the policies which the Government has recently introduced have already produced a certain cooling effect on the property market.

As the public and private real estate markets are two entirely different markets, they should be segregated, co-ordinated and balanced. Since the HOS has been implemented for some 30 years, we are well aware of its merits and demerits. As long as the mistakes of the 1990s, such as building larger and larger units as well as more and more luxurious flats, competing for high-quality urban land with private developers, are not repeated, HOS flats can definitely continue to give play a role in "home ownership" and provide cozy homes for the sandwich class.

With these remarks, I support the amendments moved by Mr CHAN Kam-lam, Mr WONG Kwok-kin and Mrs Sophie LEUNG. Thank you, Deputy President.

MS CYD HO (in Cantonese): First of all, I would like to respond to the earlier speech of Mr IP Kwok-him. He said that 40% of people are now living in public rental housing (PRH) units, 40% in private housing and 15% are now waiting for allocation of PRH units; and the problem we now have to solve is the 15% of people who are now waiting for PRH units.

Deputy President, I must refer back to the figure on population projections. At present, apart from having to solve the housing needs of people who are waiting for PRH units, or those who are living in dangerous environments, such as "coffin-sized units", "sub-divided units", and unauthorized rooftop units, there is actually a group of people whose housing needs have yet to emerge. They are the grown-up children of people who are now living in public or private housing. Here, I have got some information on the population profile of 2011: there are 459 900 people between the age of 20 to 24; 553 400 people between the age of 25 to 29; and 554 600 between the age of 30 to 34, adding up to a total of 1.6 million. These people may not have acquired their own homes, for the eldest of them is only 34 years old. However, if the housing needs of the people from the age of 20 are projected, we can see that a new demand will emerge in the next 10 years.

As such, we should not just focus on people who are now waiting for public housing allocation or those who are suffering from high rents of private housing. We should instead be more forward-looking and look into the future housing needs of the group of people who are now between the age of 20 to 34. Though most of them are now living with their parents, they will have to move out when they get married in future, and this group of young people will face the problem of home ownership as often mentioned by Mr IP Kwok-him and Mr CHAN Hak-kan. Though the housing needs of this group have not yet emerged in the market, we cannot simply ignore them. As it takes years to construct flats, and even if it does not take as long as seven years, it will take three to four years. Therefore, we should not just perceive the situation of the present moment.

As we all know, the property market is getting crazy and it has completely divorced from people's purchasing power, thus the property market must be divided into two. Hong Kong draws a substantial revenue from rates and Government rent and it pursues a free trade policy, if a lot of man-made measures are adopted, such as restricting foreign residents from buying properties or levying double taxation, it will have an impact on our free trade to a certain

extent. As such, the most ideal approach is to separate the property market into two: on the one hand, people can speculate crazily at will and they are allowed to acquire whatever properties they like, and on the other hand, the Government should take up its responsibilities to offer housing protection to people whose current purchasing power fails to catch up with the soaring property market.

The public housing market can also be divided into two levels, that is, the HOS flats and PRH flats. In regard to HOS flats, I totally agree with the proposals of Mr Alan LEONG. I have also said in the past that the price should be set against the benchmark of people's income and purchasing power, instead of prices in the private market. Currently, the per-square-foot rate of first-hand property in the private market has already exceeded \$10,000, and even with a 30% discount, it still amounts to \$7,000 to \$8,000 per square foot, which is still divorced from reality.

I had the opportunity to meet with members of The Real Estate Developer Association of Hong Kong when I first joined the Council in 1998. Back then, the property market bubble had not yet burst, and the property market was also very crazy. I asked them the percentage of mortgage payments in relation to a family's income before it would be deemed as reasonable and affordable? One of the members said, people would continue to buy property if mortgage payments constituted 50% of the family's income. However, we now see that the mortgage payments have already constituted more than 50% of the people's family income? As such, this indicator may only be appropriate when applied to HOS flats.

Let us also take a look at the construction costs. Of course, what we build is subsidized housing and even if we do not seek to recover the cost of the land, we still hope to recover the cost of construction. According to relevant public works documents, the per-square-foot construction cost for HOS flats is only \$14,000 and \$17,000 for somewhat more luxurious flats. If calculated on the basis of the lower cost, the construction cost for a 700-sq ft unit is still less than \$1 million, only about \$980,000. This is affordable housing in light of the people's current income, for after making a 30% down payment, the monthly mortgage payment for the remaining \$700,000 or so is about \$7,000 per month. This amount is affordable to about half of the families in Hong Kong, in particular when both members are university graduates, even if one of them is not a university graduate, the price is still affordable to such young families.

But unfortunately, in the existing second-hand public housing market, the price of a flat in Wah Kwai Estate has already gone up to \$2.2 million and that in Lei Tung Estate to \$1.8 million, with the price completely divorced from reality. As such, it is all the more necessary for us to put some affordable HOS flats on the market, otherwise, there will be more objections if we want to bring down the property prices when the prices of second-hand public housing flats are speculated up to more than \$2 million in future.

Deputy President, furthermore, there is the issue of proper usage of PRH units. At present, there are many cases in which only two or even one elderly person living in PRH units for four to five people. What we can do is to establish elderly villages within the PRH estates and provide the elderly with meals delivery and home cleaning services as well as elderly recreational facilities, so as to attract the elderly to give up the PRH units for four persons or above in which they are now living, so as to vacate the units for needy families. All these are administratively feasible arrangements.

Finally, Deputy President, the Chief Executive is fond of keeping koi, and has spent hundreds of thousands of dollars on building a koi pond when he first moved into the Government House. I still remember that the name of one koi is "dirty Kan". If even "dirty Kan", a koi can live comfortably under the care of the Chief Executive, why the 7 million residents cannot enjoy such right? I urge the Chief Executive to take care of the 7 million people and be genuinely "people-based and people-first".

MR WONG KWOK-HING (in Cantonese): Deputy President, I speak in support of Mr WONG Kwok-kin's amendment.

Deputy President, Hong Kong has been in lack of a long-term and comprehensive housing policy over the past 10 years, thus the housing ladder for upward mobility has been disrupted, giving rise to many strange phenomena. Looking back at the past 10 years, we can see that the Government had once implemented many benevolent policies which have been proven to be effective, but the Government has discontinued these favourable measures and policies. First of all, the Government did not resume the Home Ownership Scheme (HOS); secondly, it had abolished the Tenants Purchase Scheme (TPS); and thirdly, it had abolished the rent control and tenancy protection under the Landlord and Tenant

(Consolidation) Ordinance, and landlords were allowed to regain possession of their properties by giving one month's notice and no limits were set on the rate of rent increase. Fourthly, only 15 000 new PRH units are constructed each year. As a result, the housing mobility ladder was disrupted and many problems have thus arisen.

Deputy President, after a long-term study, the Hong Kong Federation of Trade Unions (FTU) issued on Monday, a 21-page report entitled "安家樂業" (meaning living and working in contentment), detailing the summary of recommendations on housing policy. Copies of the report will later be submitted to the Government. We pointed out in the summary that instead of revamping and removing the housing mobility ladder, we hope that the Government will formulate a long-term and comprehensive housing policy. As regards to the housing policy, we hope that the Government can get back onto the right track.

Mr WONG Kwok-kin has mentioned earlier some proposals in the report, and I will add some points to his proposals from another perspective.

Deputy President, the Government submitted a discussion paper on the issue of PRH for one-person applicants this Monday. The paper has provided some very good material for discussion of various problems concerning the waiting time under the Government's housing policy from another angle. Currently, there are 152 400 applicants on the Waiting List, among which 63 400 are one-person applicants who are subject to the Quota and Points System. Though the Government claims that the average waiting time for allocation of PRH unit is three years, this is not applicable to the 60 000 one-person applicants. A victim of this policy, Mr WANG Ching-ching told me that he has been waiting for six years but to no avail.

The paper has offered another angle for us to criticize the Government. For example, some absurd situations have been depicted in paragraph 11 and paragraph 12 of the paper, and that is, of the abovementioned 60 000 applicants, 24% are below the age of 30 and 16% are above the age of 30 and living in PRH units, adding up to a total of 40%. I cannot help but ask, has the Government ever considered why these applicants still have to apply even though they are already living in PRH units? Has it ever occurred to the Government that the penalty imposed under the "well-off tenants" policy to require tenants to pay 1.5

times or double rent has forced young people to move out of the PRH units? Has it ever occurred to the Government that the abolition of the TPS has made PRH tenants, who can afford to purchase the flats which they currently occupied, impossible to do so? This is an abnormal situation.

The paper also pointed out that of the 60 000 applicants, 34% are students, with most of them being post-secondary or university students. As such, has the Government ever considered why that is so? Has it ever occurred to the Government that people can hardly afford to pay the rapid and substantial rental increase of private residential flats? The paper also pointed out that the income of 23% of the applicants has exceeded the existing limits, so why do they still have to apply? Has it ever occurred to the authorities that these people have unstable living conditions and unstable jobs, and coupled with the abolition of rent control, they can hardly be safeguarded?

In light of the various problems mentioned above, I think the Government should seriously consider whether it is adequate to allocate only 2 000 quotas for the 60 000-odd one-person applicants each year. I have pointed out that these applicants have to wait 31 years, but the Secretary was really very stubborn in saying that they held different views.

Deputy President, with reference to our summary of recommendations on housing policy mentioned above, I would like to add some points to Part 3 on private housing. With regard to the provision of subsidy to eligible persons, firstly, the Government should consider adjusting the amount of CSSA Rent Allowance in accordance with the movement of consumer prices each year; secondly, we hope that the Government would provide applicants with rent allowances while they are waiting for public housing allocation. Since these people have to wait a very long time before they can be accommodated, they should be provided with rent allowances; and thirdly, we request the Government to introduce a rental tax allowance for helping this group of people who are applying for public housing. They are eligible for public housing but the Government has adopted various measures not to allocate PRH units to them. This is unfair to them as they do not know how long they have to wait. I hope that the Government can listen to our views. At the same time, we also hope that the Government will review the existing rent control policy as soon as possible, in order to safeguard tenants' (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR WONG KWOK-HING (in Cantonese): to safeguard tenants' right of tenancy and curb the soaring rents.

DEPUTY PRESIDENT (in Cantonese): Mr WONG, your speaking time is up.

MR ALBERT CHAN (in Cantonese): Deputy President, in recent years, rental and property prices have spiralled in a staggering pace. Comparing the market of Hong Kong Island properties in 2010 and 1999, rental of small flats less than 40 sq m has increased by 81%; for flats over 160 sq m, the selling price has increased by 167%; while the increase is not as terrifying for properties in the New Territories, members of the public still find it unaffordable.

In addition, the situation has been aggravated by increasing rental. Rental increases in a very strange pattern which translates as the smaller the flats, the higher the rental increases. Comparing the market in 2010 and 1999, rental of flats in the Hong Kong Island less than 40 sq m has increased by 48%, and in the New Territories 25%; as for flats with an area of 160 sq m, rental has increased by 33% both in the Hong Kong Island and the New Territories. Such a phenomenon is not without reasons. Hefty increases in property prices and rental are related to the number of completed public rental housing (PRH) units, private residential housing, or the overall number of completed flats after the cessation of the Home Ownership Scheme (HOS). We have been cautioning the Government about these figures for many years, yet it still turns a deaf ear and pays no attention at all.

Looking back to the 1990s, the average production of PRH units together with HOS flats (excluding private residential housing) was 40 000 to 50 000 per annum. From 2000 to 2001, as many as 55 000 PRH units alone was provided, while the production of HOS flats was 35 000. In that year, a total of 90 000 units was provided. However, with the announcement of the "nine measures" by Secretary Michael SUEN, housing supply had dropped tremendously with only a pitiful amount of PRH units provided. From 2006 to 2007, the annual production of PRH units was only 7 000-odd — I have not quoted a wrong figure

— yes, it was just 7 000-odd. Let us picture this. At its peak, 50 000-odd units were produced, but in 2006 to 2007, the amount was substantially reduced to 7 000-odd. Certainly, the effect was that it would be more difficult for applicants on the PRH Waiting List to be allocated with a unit. Given that the Government had suspended the construction of HOS flats and reduced the production of PRH units substantially, how can property prices and rental not go up? The phenomenon I just depicted that "the smaller the flats, the higher the rental increases" is precisely due to the substantial reduction of PRH production. As a result of the negative impact of the Government's policies, so many sub-divided units and "coffin-sized units" have emerged in the community.

Of course, many people have put the blame on TUNG Chee-hwa. Coupled with the financial crisis in 1997, the "85 000 units" housing policy he proposed had resulted in tumbling property prices and many people were affected. But in fact, the Government should not completely revamp its housing policy just because of some short-term impacts.

Even when Donald TSANG became the Chief Executive, the overall production of PRH units had not been increased. That was caused by a misconception of Donald TSANG. Before he became the Chief Executive, TSANG had worked in various posts, and I had discussed with him about various issues. Basically, he had a belief or a misconception that the Government should not interfere with the residential property market; the Government should gradually step out of the market. Therefore, after he became the Chief Executive, housing supply was dwindling, and people were living an increasingly miserable life with their living environment becoming more and more deplorable. Yet, he still did nothing, not until WANG Guangya — the official in the Central Authorities he respected most — commented on the matter that he immediately parroted WANG's words by saying that the Government would deal with the problem. To the people of Hong Kong, this is really pathetic. Under the principle of "one country, two systems", these simple questions should have been dealt with by the officials of Hong Kong. Moreover, a consensus has already been reached by various political parties in the Legislative Council and calls have been made repeatedly to the Government for resuming the HOS. Yet it was not until comments made by an official of the Central Authorities that our so-called top leader stated in a parrot fashion that the matter would be dealt with.

Obviously, the resumption of the HOS will definitely be mentioned in the Policy Address to be announced in October. I think the Secretary for Transport and Housing would probably touch on it when he speaks later. But no official announcement would be made by the Government until the Policy Address is delivered. While I am very confident that the Policy Address will propose the resumption of the HOS, it is the detailed arrangements which we need to discuss as they are the point of contention in future. Based on Donald TSANG's misconception, I am worried that the HOS to be implemented may not follow the established pattern in the past few decades. The Government may impose certain restrictions such that the HOS is only retained in name without the substance as implemented in the past few decades. The people will then be seriously affected.

Deputy President, I would like to propose some basic principles and I hope the Government will actually consider them seriously in future. For people who entered the society in the 1970s and the 1980s like us, it was not too difficult to buy a property on mortgage once we started working. For example, only \$30,000 to \$50,000 was needed as down payment for an uncompleted flat. Assuming a working couple who were university graduates, their monthly mortgage payment would only amount to 20% to 25% of their household income. But considering current property prices, that is absolutely impossible. Therefore, when formulating the HOS policy, the Government should ensure that the maximum repayment amount of the HOS must be linked with the monthly rental of PRH, this is, it would not exceed 25%. Otherwise, if the burden of mortgage repayment becomes too heavy, members of the public can never live and work in contentment.

In addition, regarding the selection of sites, the Government should not always choose sites in remote areas, such as Sha Tau Kok, to construct HOS flats. Instead, the previous mode should be followed. That was in fact a good policy implemented by the British-Hong Kong Administration over the years. Donald TSANG was a talent nurtured under the British-Hong Kong Administration, and there is no reason why he gradually denounced the established institution and overturned all policies once he became the Chief Executive. Strangely, he had overturned a lot of things, yet he refused to relinquish his knighthood. Therefore (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR ALBERT CHAN (in Cantonese): his abnormal psychological metamorphosis is really strange.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, your speaking time is up.

MISS TANYA CHAN (in Cantonese): Deputy President, I think no Member will disagree with the statement that resuming the construction of Home Ownership Scheme (HOS) flats is a consensus in the community. However, previously, officials including the Chief Executive, the Financial Secretary and the Secretary for Transport and Housing all adopted a strong stance and stressed that the My Home Purchase Plan (MHPP) proposed by the Government could replace the HOS policy in meeting the housing needs of the Hong Kong people, particularly young people who aspire to acquire their own home. It was not until WANG Guangya commented on this matter that the Government started to loosen its stance. In fact, the HOS policy is exactly the solution to the present housing problem.

During the 1970s in the last century, the HOS policy was introduced for the purpose of providing a stable living environment for those who could neither benefit from public rental housing (PRH) nor afford to buy private residential flats. This is exactly the policy objective in response to our present housing demand. Many young people told me that they do not intend to buy luxury flats with a residents' clubhouse, they just want to buy an affordable home. I think resuming the HOS can fulfil the aspiration of young people.

First of all, resuming the HOS is a good measure to curb rising property prices, both psychologically and practically. By resuming the HOS, it can increase the actual supply of housing in Hong Kong and provide an opportunity for citizens with moderate means to acquire their own home. As we learn from basic economics, price will go down when supply is increased. By resuming the supply of HOS flats, prices of small and medium-sized flats, particularly second-hand flats, will hopefully go down. As such, "starter homes" will be provided in the market to give young people the chance of acquiring home ownership.

The psychological effect of resuming the HOS on the property market is even more instantaneous. Even when the Government has only loosened up its stance on the resumption of the HOS slightly, the market has reacted immediately. Notwithstanding the Director of Housing's claim that it would take at least seven years for HOS flats to be available in the market — Deputy President, it only took six years to construct the Hong Kong International Airport — the fiery property market has been dampened recently.

According to the data of a major estate agency, the top 10 blue-chip private housing estates only registered 14 sales over the last weekend, which is a record low in this year. Some owners have reduced their asking prices in a bid of quick sale. As shown by facts, resuming the HOS can help moderate property prices.

According to the statistics of the Rating and Valuation Department, the mortgage-to-income ratio has risen from 38% in 2005 to 48% in 2010. Let us consider the situation where almost half of a household's income is used for mortgage payment, it is indeed highly precarious. Moreover, let us not forget that Hong Kong is still under an extremely low interest rate environment. If Hong Kong enters a rising interest rate cycle, the burden of mortgage repayment of owners would increase substantially. In that case, the mortgage-to-income ratio will definitely go beyond 50%. If the Government still refuses to deal squarely with the problem of excessively high property prices, members of the public will suffer ultimately.

Deputy President, some people may consider that home ownership is not the only option of fulfilling the housing need of young people; they can still live comfortably in rental housing. However, since the enactment of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004, renting a flat is no longer a carefree matter (I am also a tenant myself). After the legislative amendments went into operation, the maximum rent increase of 30% per annum has been abolished and the notice period required for termination of tenancy has been substantially reduced from 12 months to one month. As a result, rental has increased tremendously, which is hardly affordable to young people.

According to the data of the Housing Department, the monthly income limit of PRH applications for a two-person household is \$13,410. In other words, a couple earning \$15,000 per month will not be eligible for PRH. For a couple earning only \$15,000 per month, they can spend at most \$6,000 to \$7,000

on rental. Apart from cubicle apartments or "sub-divided units", how can they rent a decent flat with \$6,000 to \$7,000 per month? Even if they can rent such a flat, the rental will go up after two years and where can they move to? If the Government is willing to resume the construction of HOS flats, members of the public can at least secure a relatively stable living environment through buying HOS flats.

If the Government is indeed willing to resume the construction of HOS flats, the first issue to be resolved is pricing because when property prices are unreasonably high, the previous HOS pricing policy will surely present a major obstacle for members of the public who want to buy these flats. Why is that so? In the past, HOS flats were priced at about 70% of the market price of private residential flats. However, when property prices are maintained at an unreasonably high level, eligible applicants can still hardly afford HOS flats even if they are priced at 70% of the market price of private residential flats.

Let me cite an example. At present, the market price of an HOS flat over 20 years of age is \$5,000 per square foot. Assuming a brand new HOS flat, the per-square-foot price can be \$6,000 at least. Even if the price of HOS flats is set at 70% of the market price, the per-square-foot price will be \$4,200. In other words, the price of a 500 sq ft flat is \$2.1 million. If an applicant buys the flat with 70% mortgage, he will need to pay \$630,000 as down payment. How can a young couple afford as much as \$600,000-odd as down payment for buying a HOS flat?

Assuming that an applicant can buy an HOS flat with 90% mortgage, it means that he would have to borrow about \$1.9 million from the bank. Calculating on a mortgage repayment period of 25 years with an average interest rate of 3.5% per annum, his monthly repayment would be \$9,512. Should the interest rate go up to 4%, his monthly repayment would exceed \$10,000. Even if calculated on the basis of the maximum household income limit of \$27,000 per month for HOS applications, more than 40% of the household income would go for mortgage repayment. For owners earning only \$20,000-odd per month, the burden will be even greater. If the newly-built HOS flats are located in urban areas, the per-square-foot price will definitely exceed \$6,000. How can an applicant with a monthly household income of \$20,000-odd afford to buy these flats? Therefore, when resuming the construction of HOS flats, the Administration must review the pricing.

Deputy President, the HOS has been serving Hong Kong well. Many middle-class families have prospered as a result of the HOS policy. According to media reports, a number of top scorers in this year's Advanced Level Examination come from HOS families. If these families did not have a stable living environment in the early years, how could they have such a good environment and so many resources for nurturing their children?

I hope the Government will gauge the public's sentiment, accept the public's view and decide to resume the construction of HOS flats immediately.

I so submit.

MR CHAN KIN-POR (in Cantonese): Deputy President, high property prices has aroused public complaints and various sectors of the community have gradually reached a consensus that it is necessary to resume the Home Ownership Scheme (HOS) to help the public resolve their housing problems.

The Government certainly understands the current problems very well, so the Chief Executive has stated that the resumption of the HOS would be considered and the details would be announced in the Policy Address to be delivered in October. The media has recently cited information from the Government that the Government would likely accept the proposal on the resumption of the HOS. When the news came out, the property market immediately cooled down and transactions evidently reduced; yet property prices remain high. An Honourable colleague has moved the motion today to urge the Government to share the public's urgent concern by immediately announcing the specific details of resuming the HOS.

I agree that most people would like the HOS to be resumed as it dovetails with the overall interests of the community, and I believe that the Government would eventually take good advice. However, as stated in the motion, there are specific details of resuming the HOS, which include the land supply, the number of flats to be constructed, the method of allocation and the pricing. As these are rather controversial issues, if a proposal on resuming the HOS is announced before specific proposals are formulated, I am afraid that it will lead to more controversies.

Moreover, everybody knows that the implementation of the second round of quantitative easing policy in the United States has been completed, and there may be short-term fluctuations in the financial market. We do not rule out the possibility that there may be an influx of a large amount of hot money into Hong Kong, which may bring substantial changes in the property market, and hence may affect the implementation details of resuming the HOS. These issues should be tackled with extreme cautious.

In my opinion, if the Government has already worked out a specific proposal, it should naturally make known to the public as soon as possible. Nevertheless, we expect that the Government would announce a complete proposal rather than a decision void of content. If the details are not yet available, the Government does not need to hurry as it would be better to wait until October for the details to be announced in the Chief Executive's Policy Address. After the Government has finalized the proposal, so long as we step up and urge the Government to start construction as soon as possible and reduce unnecessary procedures, the goal of expeditiously completing the first batch of HOS flats can similarly be achieved.

Another issue that I would like to address is about the number of HOS flats to be constructed and the pricing principles. An Honourable colleague has suggested delinking the pricing of HOS flats from market prices, and using the affordability of eligible persons and construction costs as the basis of pricing. It should also be specified in a provision that the flats cannot be easily resold for profits.

I think that the proposal is made out of good intention but it may not be feasible in practice. Hong Kong people like to purchase properties because apart from meeting their housing needs, properties have guaranteed value. The above proposals will substantially reduce the guaranteed value of properties, which may dampen people's desire to buy HOS flats. In particular, green-form applicants are living in public housing flats, why do they bother to purchase other flats with limited guaranteed value? It would be better to adjust the discount rate to make these flats affordable to eligible persons.

Regarding the numbers of flats to be constructed and the sources of land supply, I believe that we can only make objective evaluations after we have

examined in detail the actual data provided by the Government. If there is limited supply of flats, the objective of helping people purchase their flats cannot be achieved and it would not be accepted by the community; but if there is too much supply, there will be problems relating to the sources of land, and the property market may be directly affected, probably reproducing the crisis under the "85 000 housing policy". Hence, our evaluation must be based on objective data.

I agree that the sites for My Home Purchase Scheme (MHPP) should be used for constructing HOS flats so that HOS flats can be sold as soon as possible. For ordinary people, the MHPP is too complicated and novel, and there is plenty of room for fine-tuning and rationalization, and it is still unknown whether the MHPP would be successful. Rather than taking the risk of failure, the Government might as well use the sites for the MHPP to construct HOS flats as this can at least facilitate the early revival of the HOS.

Lastly, I would like to talk about public housing. I support the public housing-based policy supplemented by the HOS. Therefore, while the authorities resume the HOS, they should increase the supply of PRH flats to shorten the waiting time and solve the housing needs of the grassroots, as well as directly improve the lives of the poor. In addition, the authorities can allow public housing residents to purchase flats under the HOS, thereby increasing the number of PRH flats repossessed, and increasing the supply of PRH flats.

The housing problem has become the greatest concern of the community. When the property market rises or falls considerably, or when it remains stagnant, different problems will be incurred, which will most likely cause great impact on Hong Kong. I hope that the SAR Government would courageously defuse for Hong Kong this dangerous bomb in its remaining term of office.

I so submit.

DR PAN PEY-CHYOU (in Cantonese): Deputy President, the rise and fall in property prices in our real estate market have exerted increasing pressure on people's livelihood.

I have reviewed the changes in our housing market in the past 10 years. The darkest period since the reunification was in 2003. At that time, the property prices dropped substantially during the SARS outbreak. However, property prices have increased gradually from 2004 onwards. Property prices in January this year have exceeded the level in 1997. Take the Hong Kong Island as an example; the average property price is now \$8,674 per square foot, which is higher than the pre-square-foot price of \$7,493 in 1997.

The property market has continuously heated up these days, and higher property prices really made many people, especially wage earners, extremely worried as the rate of wage increase cannot catch up with the rate of increase in property prices. I think it is worth discussing here the major reasons for the increase in property prices.

Fundamentally, as the United States has implemented the quantitative easing policy to deal with the impacts of the financial tsunami, there has been a proliferation of global funds. As regards the situation in Hong Kong, apart from this overseas factor, I believe the purchase of local properties by our compatriots from the Mainland, or their investment in properties has brought about the continuous heating up of the property market.

Under such circumstances a few Honourable colleagues have just referred to the housing and home ownership needs of ordinary people and their worries. I would like to focus my discussion on the sandwich class.

Under the present scheme, the sandwich class are not eligible white-form applicants under the Home Ownership Scheme (HOS). As an Honourable colleague has just said, people with a household income exceeding \$27,000 are not eligible for HOS flats. However, what kinds of flats can people with a household income of \$27,000 to \$40,000 purchase in the private residential property market?

According to the figures in March 2011, a small and medium-sized flat in the New Territories with an area of 430 to 750 sq ft costs around \$5,047 per square foot. On comparison, a flat of the same area on Hong Kong Island costs \$9,255 per square foot. These are the current prices. Assuming that a household of three persons intends to purchase a 500 sq ft flat on Hong Kong Island, on the basis of the average property price of \$4.63 million in that district, and their ability to pay the 30% down payment of \$1.39 million, they have to

borrow a mortgage loan of \$3.24 million. If they are to repay the mortgage loan in 20 years, they need to repay \$17,174 each month under the existing interest rate.

In that case, the mortgage repayment amount already takes up 57% of their monthly income of \$30,000. How much money is left each month? They only have \$12,826 left. They have to use this amount for purchasing food and ingredients, meeting travelling expenses, paying tax and supporting parents. Is this amount sufficient for meeting the daily expenses of a sandwich-class core family?

The Hong Kong Federation of Trade Unions is very much concerned about this problem. As Mr WONG Kwok-hing has just said, we have recently promoted a range of housing policies. We must consider from various perspectives how we can help the sandwich class. The first method is the resumption of HOS flat production as we just mentioned. I believe that the income eligibility for HOS flats cannot help the sandwich class. If the authorities have decided to resume the HOS, they should raise the income limit to benefit more people from the sandwich class.

We also propose the construction of "public rental housing (PRH) for the sandwich class" (sandwich-class PRH), similar to the Hong Kong Housing Society's Group B Rental Estates, and setting the income limit to two times the income limit for PRH applicants. As regards PRH eligibility, the income limit for a three-person household is \$32,126, thus they are eligible to apply for sandwich-class PRH.

We propose that the rent of sandwich-class PRH should be 50% of the market rent as this level will offer great advantages to small families. They will benefit from the low rent level and, just like the past generation of PRH tenants, they can continuously accumulate wealth; hence, they will eventually be able to purchase private flats.

Since this policy aims at utilizing social resources to subsidize sandwich-class young people, we think a term (such as 10 years) should be set so that valuable social resources can be used to help other people.

Regarding other measures currently implemented by the Government, such as the measures to suppress the increase in property prices, we hope that the Government can put in more efforts to implement these policies. In that case, I believe that the relevant measures can help the sandwich class (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

DR PAN PEY-CHYOU (in Cantonese): acquire their homes.

MR ALBERT HO (in Cantonese): Deputy President, in 2002, in the name of withdrawal from the private property market, the Government completely abolished the well-tested Home Ownership Scheme (HOS) housing policy which had been implemented for some 20 years, without undergoing any consultation. Its real intention was to push up property prices for the benefit of property developers. Around 2003, the Government made further amendments to the Landlord and Tenant (Consolidation) Ordinance and completely abolished rent control. Because of these two policies, the public did not have rent protection and HOS flats were not supplied in the market, which seriously affected people's rights to housing. The Government passed the Land (Compulsory Sale For Redevelopment) Ordinance soon afterwards, and the threshold had been further lowered recently. Evidently, these government policies are biased towards property developers, which created the "real estate hegemony" phenomenon that has been strongly criticized by many people.

Owing to an inadequate supply of land and housing, a consistently low Hong Kong dollar interest rate under the present economic circumstances, an influx of foreign capital, especially from the Mainland big spenders into the property market, property prices in Hong Kong have continued to rise. Therefore, I believe that the average per-square-foot price of residential flats in Hong Kong has become the highest in the world.

Deputy President, the SAR Government has unshirkable responsibilities for creating the property market bubble and causing the evil consequence that many ordinary people cannot purchase their homes, thus, it must bear political

responsibilities. Obviously, the resumption of the HOS is the common wish of many people in our society, and I trust that it has more or less become a cross-party consensus in this Council. Hong Kong people have voiced their requests for resuming the HOS loud and clear; yet, the SAR Government has turned a deaf ear and it has also turned a blind eye to such a strong demand. We are extremely furious.

Deputy President, the Government has given a number of reasons to shirk its responsibilities. It claimed that there was no land supply in Hong Kong for the construction of HOS flats, and it even challenged Members and asked us to look for land. I consider this an irresponsible comment. In fact, we note that the Government possesses a lot of land and properties, and many vacant school premises have not been fully utilized. We really do not understand why many reserved sites on the Application List cannot be allocated for the purpose, and why certain sites cannot be alternatively used for the construction of HOS flats. Are these sites only provided to property developers to help them make profits? How dare the Government give such unjustified reasons to refuse the provision of land under this unreasonable government policy?

An Honourable colleague has also stated in the motion debate today that many sites have to be opened up and levelled to facilitate the construction of ancillary facilities and flats. This takes time but it does not make sense for Mr Duncan PESCOD to say that it takes seven years. It is also a joke for many of us who have been members of the Housing Authority. The Government should consider implementing a long-term policy on housing supply, as what it had done in 1997 and 1998. Only then can we make land planning with long-term vision, and tie in with the future population policy to safeguard the people's rights to housing.

In requesting for the resumption of the HOS, we should definitely take this opportunity to review and improve the HOS policy that had been abolished. We also think that the Government should consider relaxing the restriction on the resale of the existing HOS flats to enable people to resell these flats through a flat-for-flat arrangement. Similar to the Tenant Purchase Scheme, the Government should consider providing more discounts for the purchase of the new HOS flats in the future. As limited subsidy was provided for the purchase of HOS flats in the past, we think that more discounts should be given under the present market circumstances to facilitate people's purchase of their first flats.

When the sale of HOS flats is resumed in the future, I do not think there would be a downturn in property market downturn which will have adverse effects because HOS flats belong to the segmented market (*The buzzer sounded*)
.....

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR ALBERT HO (in Cantonese): and the effects will definitely be limited.

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, the subject of our discussion today originated from the policy announced by Secretary Michael SUEN in this Council on 13 November 2002, commonly referred to as "SUEN's nine measures". These measures have certainly done immense harm as we have noticed today. I would like to quote some of the Secretary's arguments; he said, "Against the peak in 1997, property prices have tumbled by over 60%. The volume of transactions also shows a marked decline." This was what he said in this Council on 13 November 2002. What about the situation today? Property prices are now higher than the peak level in 1997, and there is also a large volume of transactions. Even if what he said was right at the time, his comment is erroneous today.

What did he say? He said that there were nine measures. First, land supply, "the supply of new land will only be triggered from the Application List". He thought that, with the cessation of land sale, property developers could not purchase land at a low price. There was a property market downturn at the time but it is not the case today. Property developers adopt the most despicable method of collaborative pricing (as we had discussed at the meetings of the Bills Committee on the Competition Bill). They took turns to mark sites on the Application List to push up land prices; so the first measure relating to the Application List was not effective.

Concerning the plans for the construction of public rental housing (PRH) units, he said, "It is estimated that over 20 000 PRH units will have to be built annually in the next few years". The fact that 7 000 PRH units were constructed from 2006 to 2007 evidently revealed that Secretary Michael SUEN and the Government were utterly shameless, they spoke in this Council with their tongues in their cheeks, and they had never honoured their promises.

Regarding the HOS, he said, "The overlap between HOS and private residential market is getting more serious. The advantages and value of the HOS are gradually diminishing, so are its role and attractiveness. The subscription rate of HOS has also hit a record low." What he said was right at the time but his comment is erroneous today. At present, everybody wants HOS flats to be constructed and the HOS to bear its previous responsibilities again, especially at a time when property prices are surging. Even though the Government has conducted a study, it goes back on its words 10 years later. This is definitely erroneous.

Concerning the Home Assistance Loan Scheme, some have asked what should be done if HOS flats are not constructed. It is because everybody wants to acquire homes. The Secretary said that people could apply for loans and priority was given to PRH tenants who were green-form applicants but white-form applicants could also apply for loans. Yet, the Scheme was all in vain. Honestly speaking, the loan amount of \$600,000 is no longer helpful; what can a person buy with the money? Soya sauce or sugar? The soya sauce will not be salty enough and the sugar will not be sweet enough. This Scheme does not work in a rising property market.

What has the Mixed Development Schemes produced? It is sheer nonsense. A large bureaucratic body was established by the Urban Renewal Authority (URA) with \$10 billion public money, and it acquired land under the Urban Renewal Authority Ordinance enacted by this Council. Small owners cannot defend themselves under the Land (Compulsory Sale For Redevelopment) Ordinance. The URA, the Housing Authority and private property developers collaborate to develop properties at valuable sites in urban areas to make profits.

The eighth measure is about tenancy control. He wanted to abolish rent control, and he said, "I hope to put the Landlord and Tenant (Consolidation)

(Amendment) Bill to the Legislative Council for scrutiny next year". As he said so on 13 November 2002, the Bill would be introduced into this Council in 2003 or later. So, Members from the pro-government camp who loudly criticize the Government today were the ones who rubber-stamped the amended legislation. What actually happened, buddy? We helped the robber and opened the door to him, and he killed everyone inside the room. How could he step forward and said to the thief, "I have already said that we are miserable, why do you kill those people? Why is there a knife?" The thief told him that he was the one who gave him the knife. Since this rubber stamp and talk shop this is a talk shop when we talk about serious matters, and the rubber stamp will be used when the Government does harm to people. This is no different from the "scapegoat" proposal today. The same happened in relation to the "scapegoat" proposal. Following Secretary Stephen LAM is a pitiable task. Buddy, his attitude keeps changing and we are not sure whether we should support him or not. Nonetheless, the rubber stamp will still be used two months later.

Deputy President, let us take a look at this historic document again. The so-called property market rescue measures taken by the Government at that time are no longer effective after eight years even though they were then regarded as appropriate measures. Is the Government taking measures without regard to changes in circumstances, always serving the interests of property developers? This is the problem for this Council to tackle.

It is actually simple enough; if the Government will not construct any more HOS flats, we should not trust Donald TSANG and we should drive him away. But, are we so daring and resolute? If I intend to propose a vote of no confidence, will Honourable colleagues allow me to propose such an assessment of him? Am I right?

Deputy President, while some people are as poor as a church mouse, some others are extremely wealthy. Members of this Council from the pro-government camp are helping extremely wealthy people but not those who are as poor as a church mouse

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese): that is the reality.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr Alan LEONG, you may now speak on the five amendments. The speaking time limit is five minutes.

MR ALAN LEONG (in Cantonese): Deputy President, if you read my original motion, you should have noted that there are some focal points; so I am not making abuses or seizing on the subject to exaggerate matters as some Honourable colleagues have said. One of the focal points is that, as stated in my original motion, the Chief Executive failed to grasp the seriousness of the housing problem when he was interviewed in Australia. Some Members including Mr WONG Kwok-kin, Mr CHAN Kam-lam and Mrs Sophie LEUNG deleted this remark in their amendments. This remark is not meant to reprimand and I am just stating the fact that the Chief Executive seemed to be a bit out of touch with the actual situation in Hong Kong. Nevertheless, I think that this is not part of the concrete proposals in the original motion after all; the Civic Party thus finds it acceptable that some Honourable colleagues have deleted this remark.

Regarding the proposed specific details, first, we ask the Government to use the sites originally earmarked for the My Home Purchase Plan (MHPP) for constructing HOS flats, so as to strive for the completion and supply of flats beginning from 2014. The Civic Party thinks that this point is more important than the rest of the specific details proposed. For this reason, we find it hard to accept the deletion of the first point by Mr CHAN Kam-lam and Mrs Sophie LEUNG. I would like to explain to the two Members that, we actually propose that the sites earmarked for constructing 5 000 flats under the MHPP should be used for constructing HOS flats, and this does not necessarily mean that the Civic Party will certainly not support the MHPP after its enhancement. There is no such logic. Now that all parties and groupings in this Council, including the DAB, think that they cannot support the proposal of asking the Government to enhance the MHPP and include buy or rent option, we may, during the process of

enhancing the MHPP, commence the construction of HOS flats immediately on these disposed sites rather than having these sites bask in the sun. If the Government really shares the public's urgent concern, it should commence the construction of HOS flats on these sites first. Hence, the Civic Party cannot support the amendments that deleted the first point.

As regards the other focal points such as the second point in my original motion on delinking the pricing of HOS flats from market prices, we have particularly stated that the eastern and western parts of the ex-North Point Estate, as well as the former Homantin Estate Redevelopment Phases 2 and 7 sites can be used for constructing new HOS flats. This is an important part of our proposal. The Civic Party will support all amendments that are not in conflict with this proposal. I am pleased to hear that all Members who moved amendments think that the ratio of white-form applicants should be reviewed, and that they support reviewing the eligibility requirements for HOS applicants in the light of actual circumstances. We have heard them very clearly.

Deputy President, in summing up, we cannot accept the two amendments of Mr CHAN Kam-lam and Mrs Sophie LEUNG because they have deleted the first point in my original motion, but we will support all other amendments.

I so submit.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I thank Members for their remarks just now, and for their valuable views on the Government's housing policy, especially about the Home Ownership Scheme (HOS) flats. I am now going to give an overall response with regard to the policy areas of the Transport and Housing Bureau and the Development Bureau.

(THE PRESIDENT resumed the Chair)

Some Members express the wish that the Government should expeditiously build a certain number of HOS flats, and they have made various proposals, such as to construct HOS flats on certain sites designated for private development.

However, some Members have cautioned that reducing the supply of private land will exacerbate the blazing property market. In view of the limited land resources in Hong Kong, the utilization of sites should actually meet different needs. As I have just said, we must take a macroscopic view of the housing problems and handle these problems as a whole. I must emphasize that the Government has always listened with an open mind to the views of Members and the community on the housing problems. The Chief Executive has declared in the Legislative Council in May that he would respond to the issue of resuming the HOS in the coming Policy Address.

Here I would like to make clear one point, we do not agree, though some Members have suggested, that schemes subsidizing home ownership should be regarded as a means to curb property prices. The prices of private residential properties are affected by various factors, such as the supply and demand of flats, the economic situation and the movement of interest rates, and these factors are not directly related to whether the Government has taken measures to assist people in acquiring their homes. Experience tells us that subsidizing home ownership cannot solve the cyclical problems of our economy or the property market, nor can it ease short-term market fluctuations.

For instance, while we had constructed some 46 000 subsidized sale flats from 1996 to 1997, the private residential property prices still increased by over 50% during the period. We started selling residual HOS flats in 2007 and some 17 000 flats have so far been sold. Nevertheless, property prices have still gone up during this period.

A number of Members have proposed that the Government should allocate various sites for specific purposes such as the construction of HOS flats. In this connection, the Financial Secretary's Steering Committee on Housing Land Supply will co-ordinate the work of various departments — this certainly involves the participation of the Transport and Housing Bureau — and priority will be accorded to handling problems related to sites for housing development, so as to ensure stable and adequate land supply for public and private housing flats, including small and medium-sized private residential flats. The policy of the Government seeks to meet the needs of various sectors of the community through stable and adequate land supply, so as to promote the steady development of Hong Kong. Therefore, the Government will identify the required sites under the established policies.

The Government reviews from time to time the most suitable use of sites on the Application List in order to make the best use of land resources. For instance, when we prepared the 2010-2011 Application List, we removed a residential site on Hospital Road on Hong Kong Island and allocated the site for building university student hostels. On the 2011-2012 Application List, we have not rolled over two residential sites located respectively in Mui Wo and Lin Shing Road, Chai Wan on the earlier Application List, and we have alternatively allocated these sites for the construction of public rental housing (PRH).

The sites of the ex-North Point Estate and the former Homantin Estate as some Members have mentioned have been included in the 2011-2012 Application List for private residential development and the Government did not intend to make any changes. These two residential sites are newly included in the Application List this year. When the Lands Department has completed the formulation of the relevant terms of land sale, the two sites can be triggered for public tender or auction.

To respond to the ardent market demand for residential sites and ensure sufficient land supply, the Government has taken the initiative to launch the sale of sites under its Land Sale Programme in the first and second quarters of the 2011-2012 financial year. The Government will continue to take proactive approach in selling residential sites.

Moreover, Mr LEE Wing-tat proposes reviewing the use of the sites of abandoned former school premises and community facilities. The Planning Department reviews from time to time the land use of sites designated for Government, institution or community facilities. It gives adequate consideration to the use of such sites to flexibly tie in with the overall government policies and meet the changing aspirations and needs of the communities.

I must stress that, while various Policy Bureaux and departments are making efforts to look for land resources for housing development, the premise is that the sites for public housing should not be affected, so as to ensure that low-income families who cannot afford the rents of private residential flats can be allocated PRH flats as soon as possible. The Government's goal is an average waiting time of around three years for applicants on the Waiting List and its purpose of providing public housing to low-income families remains unchanged.

Since the Government understands people's worries about rising property prices, it has already introduced a range of measures in the past year to ensure the healthy and stable development of the property market. These measures include increasing land supply, curbing property speculation, ensuring the transparency of the property market and preventing excessive expansion in mortgage lending. Also, the Financial Secretary has repeatedly said that appropriate measures will be taken when necessary.

In fact, the Government has been closely monitoring the development of the private residential property market, and it remains alert in preventing the risks of asset market bubbles. For this reason, the Government has constantly reminded the public that abundant liquidity and the low interest rate environment will not last forever, and property prices will not rise forever as well. On this point, some Members have just pointed out and reminded the public that they must pay careful attention to the potential impacts of interest rate increases on the property market, and they must weigh carefully the risks and assess if it is within their means before making any home purchase decisions.

Some Members want the Government to increase the supply of housing sites, including sites for "flats with limited floor areas". As I have just mentioned, apart from the sites on the Application List, the Government has taken the initiative to put up certain sites for sale, and together with sites from other sources such as the MTR Corporation Limited and the Urban Renewal Authority, it is expected that 35 000 flats can be constructed on sites available in this financial year for private development. To increase the supply of small and medium-sized flats, the Government has additionally imposed restrictions on the minimum number as well as the floor areas of flats constructed on those sites designated for government-initiated sale.

Some Members have proposed using the sites originally earmarked for the My Home Purchase Plan (MHPP) for constructing HOS flats. I have to emphasize that the HOS is not a short-term policy, thus we must consider the continuity of the policy such as whether we can have a continuous supply of sites for the HOS without affecting the supply of other types of housing. The MHPP is a subsidized home ownership scheme implemented by the authorities after careful consideration. It has an important role to play with regard to the housing mobility ladder. Since the announcement of the MHPP, we have heard a lot of views urging the authorities to increase the number of flats to be produced under

the MHPP, and requesting the Housing Society to expedite the progress of the relevant projects, so that more people can be benefited under the MHPP. Hence, we currently do not have any plans to use the sites earmarked for the MHPP for constructing other flats.

Concerning public housing, I would like to talk about the allocation quota under the Quota and Points System. In fact, when the Housing Authority worked out the Quota and Points System in 2005, it had made reference to the average percentage of flats allocated to non-elderly one-person applicants on the Waiting List in the past 10 years.

If we are to increase the quota for non-elderly one-person applicants, the chances of other applicants on the Waiting List (including household and elderly applicants) being allocated with flats will decrease. The Housing Authority is of the view that priority should be given to meeting the housing needs of household and elderly applicants rather than non-elderly one-person applicants. Actually, in the year 2010-2011, the number of non-elderly one-person applicants on the Waiting List who have been allocated flats, including those who have been allocated flats under the Express Flat Allocation Scheme, actually accounts for 15% of the total number of flats allocated.

Some Members express the wish that the Government would rebuild the housing mobility ladder of PRH flats, HOS flats and private residential flats. Actually, there is mobility between PRH and private sector housing. Public housing tenants can buy HOS flats with premium unpaid in the HOS Secondary Market, thereby vacating PRH flats for allocation to people in need.

Second-hand HOS flats are an important source of supply of small and medium-sized flats affordable by the general public. There are over 320 000 HOS flats and some 65 000 of these flats with premium paid can be sold in the open market. The remaining some 255 000 flats with premium unpaid can be sold in the HOS Secondary Market. They can also be sold in the open market when premium has been paid. 70% of these HOS flats are located in the urban areas and extended urban areas. Promoting the turnover of these flats will help increase the supply of low-priced small and medium-sized flats and meet the needs of people who want to acquire their homes. Therefore, the Housing Authority has earlier introduced some measures to revitalize the HOS Secondary

Market. Above the HOS Secondary Market, there are the MHPP and various first-hand and second-hand private residential flats priced at different levels to meet the needs of people with varying degree of affordability.

All in all, the Government has been closely monitoring the development of the property market. The major reasons for the current rise in property market are abundant liquidity and consistently low interest rates, we all understand about these factors. Yet, the situation will not last forever and property prices will not rise forever. The Government will continue to monitor the market situation and it will also listen with an open mind to the views of Members and the public. The issue of HOS flats cannot be discussed separately; we must also consider how limited land resources can be utilized to provide the public with housing options at different levels. We will comprehensively consider the housing problems and the Chief Executive will give a detailed account in his coming Policy Address.

Thank you, President.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you may move your amendment.

MR LEE WING-TAT (in Cantonese): President, I move my amendment.

Mr LEE Wing-tat moved the following amendment: (Translation)

"To add "when interviewed by a foreign media organization earlier on, the Chief Executive indicated that the Government had the responsibility of assisting middle-class people who are ineligible for public rental housing in acquiring homes; yet," after"That,"; to delete"yet," after"need;"; to delete"by a foreign media organization earlier on" before", the Chief Executive"; to add"(a) to provide at least 5 000 flats in the first phase of resuming the construction of HOS flats;" after"include:"; to delete the original"(a)" and substitute with"(b)"; to add"the forward provision of uncompleted flats for application by the public well before" after"strive for"; to add", for example, in 2012" after"2014"; to delete the

original"(b)" and substitute with"(c)"; to delete the original"(c)" and substitute with"(d)"; to add"the sites of the Government's Land Sale Programme, sites of abandoned former school premises and community facilities, or" before"ertain"; to delete the original"(d)" and substitute with"(e)"; to delete the original"(e)" and substitute with"(f)"; and to delete"(i.e. non-public rental housing tenants)" after"white-form applicants"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Wing-tat to Mr Alan LEONG's motion, be passed.

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)

Mr LEE Wing-tat rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Wing-tat 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.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms LI Fung-ying, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG, Miss Tanya CHAN and Mr Albert CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, nine were in favour of the amendment and nine abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, 17 were in favour of the amendment and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Immediately announcing the resumption of the construction of Home Ownership Scheme flats" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you 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, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Immediately announcing the resumption of the construction of Home Ownership Scheme flats" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr WONG Kwok-kin, you may move your amendment.

MR WONG KWOK-KIN (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr WONG Kwok-kin moved the following amendment: (Translation)

"To delete "given that" after "That," and substitute with "since the policy of 'quantitative easing' adopted by the United States has caused a proliferation of external capitals, the threats of asset-price bubbles and inflation have therefore emerged in Hong Kong, and"; to delete "still" after "residential property prices"; to delete "and" after "rise" and substitute with ";"; to add ", thereby causing housing difficulties to the sandwich class and home acquisition difficulties to the middle class in Hong Kong; and, as the public have keen housing demands" after "of property prices"; to delete "; yet, when interviewed by a foreign media organization earlier on, the Chief Executive even claimed that there was no housing problem in Hong Kong; the relevant remark reflects that the Chief Executive is out of touch with the actual circumstances of the society and unable to grasp the seriousness of the current housing problem" after "need"; to delete "details" after "specific" and substitute with "arrangements"; to delete "problem" after "current housing" and substitute with "concern of the public"; to add "to expeditiously undertake preliminary work for resuming the construction of HOS flats, including establishing a framework for resuming the construction of HOS flats and identifying sites, and when necessary," after "(a)"; to delete "affordability" after "and use the" and substitute with "income levels, home purchase affordability rates and repayment ability"; to add ", etc.," after "costs"; to add "; and at the same time, to set resale conditions, so as to restrict resale of newly completed HOS flats for profit easily" after "of pricing"; to delete "(for example, the eastern and western parts of the ex-North Point Estate, as well as the former Homantin Estate Redevelopment Phases 2 and 7 sites)" after "development"; to delete "appropriately" after "consider"; to delete "and" after "for applicants;"; and to add "; (f) while announcing the resumption of the construction of HOS flats, to increase public rental housing supply and shorten public rental housing applicants'

waiting time, with a view to fully alleviating the current housing demands of middle-income and low-income people as well as the sandwich class, and enable public rental housing tenants with the means to acquire homes through HOS, thereby achieving the 'revolving-door' effect; and (g) to expeditiously formulate a long-term housing and land supply policy, including rebuilding the three-rung housing mobility ladder of 'public rental housing—HOS flats—private residential flats', and to conduct studies, so that the Government can provide adequate residential sites for supply to the three different housing modes as public rental housing, HOS flats and private residential flats" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-kin to Mr Alan LEONG's motion, be passed.

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, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, as Mr WONG Kwok-kin's amendment has been passed, you may now move your revised amendment.

MR CHAN KAM-LAM (in Cantonese): President, I move that Mr Alan LEONG's motion as amended by Mr WONG Kwok-kin be further amended by my revised amendment.

Mr CHAN Kam-lam moved the following further amendment to the motion as amended by Mr WONG Kwok-kin: (Translation)

"To add (f) while resuming the construction of HOS flats, to expeditiously implement and enhance the My Home Purchase Plan, including the enhancement measure of 'rent-and-buy' to become 'rent-or-buy', as well as reviewing and expediting the various procedures of My Home Purchase Plan, with a view to shortening the time between the planning and completion of projects, etc." immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHAN Kam-lam's amendment to Mr Alan LEONG's motion as amended by Mr WONG Kwok-kin be passed.

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.

(Members raised their hands)

Mr James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

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.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Margaret NG voted against the amendment.

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mr WONG Kwok-kin voted for the amendment.

Ms Audrey EU, Mr Ronny TONG, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN voted against the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, 15 were in favour of the amendment, one against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, seven were in favour of the amendment, six against it and 10 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, as the amendment by Mr WONG Kwok-kin has been passed, you may now move your revised amendment.

MRS SOPHIE LEUNG (in Cantonese): President, I move that Mr Alan LEONG's motion as amended by Mr WONG Kwok-kin be further amended by my revised amendment.

Mrs Sophie LEUNG moved the following further amendment to the motion as amended by Mr WONG Kwok-kin: (Translation)

"To add "; (h) to ensure that constructing new HOS flats will not affect the supply of public rental housing sites, so as to enable balanced development of public rental housing and HOS; and (i) to conduct studies on whose needs HOS flats should cater for and consider the relevant factors" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mrs Sophie LEUNG's amendment to Mr Alan LEONG's motion as amended by Mr WONG Kwok-kin be passed.

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.

(Members raised their hands)

Mr Alan LEONG rose to claim a division.

PRESIDENT (in Cantonese): Mr Alan LEONG has claimed a division. The division bell will ring for one minute.

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.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Kwok-him and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted against the amendment.

Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN voted against the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, 13 were in favour of the amendment, three against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, five were in favour of the amendment, 16 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Alan LEONG, you may now reply and you have one minute 50 seconds.

MR ALAN LEONG (in Cantonese): President, as a number of Honourable colleagues have just said, this Council has discussed the policy on the resumption of the HOS for many times. We actually have the greatest consensus. Today, I have heard Members from the Liberal Party say that they support the resumption of HOS flat production; just that the issue must be handled carefully and we must not act with undue haste. Our views are basically consistent.

However, after listening to Members' remarks in the debate today, that is, after listening to the remarks made by 17 Members and the views on the five amendments, the Under Secretary has still failed to give a response which can give hope to people who are watching or listening to this debate. Certainly, he may wish to wait until October when the Chief Executive who wants to do a good

job will make an announcement, thus, he cannot disclose the details here on behalf of his boss.

President, in respect of the motion today, after Mr WONG Kwok-kin has made the amendment, I really hope that Members will seek common ground while reserving differences and support the motion. It is because a very clear message is that we want the executive authorities to resume HOS flat production as soon as possible.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Alan LEONG, as amended by Mr WONG Kwok-kin be passed.

PRESIDENT (in Cantonese): 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, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Second motion: Studying the establishment of an innovation and technology bureau.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Dr Samson TAM to speak and move the motion.

STUDYING THE ESTABLISHMENT OF AN INNOVATION AND TECHNOLOGY BUREAU

DR SAMSON TAM (in Cantonese): President, the motion moved by me today is "Studying the establishment of an innovation and technology bureau".

President, why do I move such a motion? I think at present, some problems have emerged in the overall development of Hong Kong society. What are the problems? As we can see, problems ranging from inflation to wealth gap are affecting Hong Kong's economy. Many of my friends have also noticed that all walks of life are gradually losing confidence in Hong Kong. What are the reasons? One of the reasons is that, at present, the global economy, in particular the economy in the Asia-Pacific Region, has undergone drastic changes.

As China's economy no longer needs to rely on Hong Kong to act as its economic driver, Hong Kong has failed to find itself a new role. Without a new way out, people have lost confidence in its future. Exactly what changes have taken place in the regional economies? All along, Hong Kong has been a re-export centre for China, especially for the Pearl River Delta (PRD) Region, and it has provided many services, including financial and logistics services, over the past 10 years. However, following the changes in the Mainland economy, the logistics services have been taken over by a number of ports on the Mainland. As for the financial service industry which we often say is the strongest sector in Hong Kong, I believe that in the future, the whole PRD Region — whether it be Qianhai or Guangdong Province — will focus its strength on developing the service industry, and sooner or later, it is likely to surpass Hong Kong.

Hence, the past situation where the whole China solely relied on Hong Kong has changed. If Hong Kong fails to find a new role, it will only become more and more marginalized. Thus I believe that the Hong Kong Government — if it is a responsible government — must find a new way out for Hong Kong and make suitable investment for the future of Hong Kong's economy so that our talents or enterprises will be able to secure new development.

Faced with the new situation, does Hong Kong actually have any chances? Where do these chances lie? In my view, in order to seek opportunities, we must analyse the development trend of China. If China needs anything in its

future economic development, it means that Hong Kong will have the chance to play a part. In the past 30 years of reform in China, Hong Kong has played the role of a stimulator of China's industry or export. However, China has already made it clear that it does not want to become a world factory in the future. As a result, I guess there will be significant changes in the future economic development of China.

Early last month I went to Beijing to attend a science and technology conference, where I had the chance to listen to Premier WEN Jiabao's speech. He usually speaks slowly, but on that occasion he spoke very fast. Yet he still spoke for more than 100 minutes. He mentioned what China's future development should be like. I have learnt a lot from his speech.

From Premier WEN's speech, I note that China indeed is going to change, and the changes which it is going to face will not be simple. Premier WEN mentioned his concerns in three aspects. Firstly, China's labour force will not be supplemented by a lot of new forces as it did in the past. Therefore China will be faced with increasing labour costs, and coupled with an ageing population, retirement will be a serious problem which has to be tackled. Secondly, over the past 30 years, industrial development has indeed consumed a lot of resources, causing serious shortages of land, energy and water. Thirdly, Premier WEN anticipated that 200 million people will migrate from rural villages to urban areas in the next 10 years. With an addition of 200 million people in the context of the present town planning, what problems will arise?

All these concerns indicate that China's future development absolutely cannot merely depend on industries or processing industries. Premier WEN also pointed out clearly that China's future development hinges on adopting innovative technology to reduce energy consumption for sustainable development of the cities. He particularly stressed that China must not exhaust the resources for the future generations in the next 30 years. Thus China will definitely place technology and innovation as the core elements of economic development. As China puts such emphasis on technology and development, what role can Hong Kong play? Or is there any role that Hong Kong can play?

As everyone knows, the investment made by our country, China, in technology and innovation keeps increasing every year. Does that mean money can solve the problems? Yet the Premier considers that China may not be able

to develop autonomous innovation merely by spending money. Why? I think Premier WEN also agrees that the international forces will not let China have autonomous innovation in the domain of technology and overtake other countries, such as European and American countries. As we know, at present there is a gap between the eastern and western economies. Nevertheless, Premier WEN opines that the gap in technology will be much more serious than the gap in economy in the future. While the gap in economy can be made up with low costs and large quantities, the gap in technology cannot be bridged so easily because once a patent is registered, the technology belongs to the patent owner and other people will be unable to meddle in the same project. Hence, the key to technology competition is time, and Hong Kong can really help our country to go faster in the time race.

Another bottleneck faced by China is that at present, the international rankings of universities in China in scientific research are relatively low. So Hong Kong really has such a chance. The rankings of universities in Hong Kong in scientific research have an edge over that of the Mainland. Therefore comparatively speaking, Hong Kong has the chance to develop into a regional platform for scientific research in the next five or 10 years.

Past history has shown that Hong Kong is the freest place. I believe that Hong Kong can capitalize on our freedom to use the Internet, our sound legal system and the financial system to produce considerable effect in technology and financing. As a result, I strongly believe that Hong Kong can absolutely enhance its development in innovation and technology.

From the analysis, we learn that China attaches great importance to technology and innovation, what then can the Special Administrative Region (SAR) Government do? My motion today cherishes the hope that the present SAR Government will immediately conduct a study so that the new term SAR Government elected next year would set up an innovation and technology bureau.

Some of you may ask, why is it necessary to set up a Policy Bureau? I think as everyone knows, Hong Kong has talked about the need to develop innovation and technology for one or two decades, but speaking of the actual achievement, much was said, yet little was done. Hence, I very much hope that the SAR Government of the next term can truly make more input and commitment by setting up an innovation and technology bureau.

What are the advantages of setting up an innovation and technology bureau? I expect this bureau to achieve three things. Firstly, this bureau can formulate some objectives, strategies, policies and actions for Hong Kong's innovation and technology industry. In many areas, pure investment of money without co-ordination will hardly produce any effect. Take Europe and America as an example. Among the top 50 enterprises in the United States, at least one fourth are enterprises engaged in innovation and technology. In Hong Kong, however, among the 50 largest enterprises, most of them are engaged in the financial and real estate industries. Thus the present social and industrial structures in Hong Kong are somewhat imbalanced.

Secondly, I expect the innovation and technology bureau to elevate and change Hong Kong's international positioning. At present, when people around the world talk about technology and innovation, no one will think of Hong Kong. Therefore very few international technological research institutes will come to invest in Hong Kong, since everyone thinks that Hong Kong only engages in the financial industry.

Hence, I hope that upon the establishment of this bureau, the Secretary in charge will tell the world that Hong Kong is suitable for technology development, and it welcomes international technology enterprises to come to pursue development. As we anticipate, international technology enterprises will flood into Asia in the coming decade because the future market lies in Asia. Regrettably, these enterprises are not flooding into Hong Kong. Instead, they go to Shanghai, Taipei or Singapore.

Thirdly, I expect this bureau to provide an environment which is conducive to innovative development. It is not that the present development of innovative industries in Hong Kong is not good, yet it lacks the best environment. With respect to the training of talents, synergy for industrial clusters, protection of intellectual property and provision of incentives, I believe that with the establishment of a dedicated Policy Bureau, we can get twice the result with half the effort, thereby enabling Hong Kong to develop a new industry. The development of a new industry is not just a matter of the industry itself. Rather, it enables the whole territory to enter into a new high value-added economy.

Lastly, of course the SAR Government will ask, after all, will Hong Kong succeed in its development of technology and innovation? Will it be too late to

develop it now? Let me reply firmly, if we do not take actions now, we will certainly fail; just take a look at our neighbouring cities, they have already made substantial achievements since they set off, if we are willing to pursue development, in the next 10 or 20 years we would have some achievements. For instance, the person from the Taiwan Kuomintang Government who wrote the speaking note on the policy on technology for MA Ying-jeou has recently come to Hong Kong. He said that Taiwan set out to develop technology about 25 years ago, and fruitful results have now been observed. Nevertheless, their enthusiasm will grow even higher in the days to come because in the future, they have to set standards for technology, which will be formulated by Chinese people in China, Hong Kong and Taiwan together. I feel a bit ashamed. Does Hong Kong actually have a Policy Bureau which can tie in with the development and formulate such standards together? If Hong Kong does not set off now, it will never be able to develop any new industry.

Hence, here I hope all Members will buy this point. Taiwan set off some 20 years ago, and Shenzhen strived to catch up only in the past 10 years. By now, many well-known technology industries and companies have been established in Shenzhen which give local people, particularly youngsters, new prospects. I believe that if we do not set out for development, we will never succeed. Hence, I hope Members will support my motion.

President, I hereby move this motion. I so submit.

Dr Samson TAM moved the following motion: (Translation)

"That in the face of the new challenges of the global economy, the development of an Internet-based economy is already an inevitable trend, and innovation and technology have also become a new development strategy of many countries, therefore, Hong Kong, while continuing to develop traditional industries, must formulate afresh a sustainable economic development strategy, so that through the development of new industries including innovation and technology, Hong Kong's competitiveness can be further upgraded; according to the findings of a survey on 'How the Internet is transforming Hong Kong's economy', in 2009, the total value of Hong Kong's Internet economy was already close to HK\$100 billion, representing 5.9% of the Gross Domestic Product ('GDP'), and it is expected that the Internet economy will continue to grow in the future at a rate even higher than the overall GDP growth rate,

showing that the Internet economy will help upgrade Hong Kong's competitiveness *vis-à-vis* its neighbouring countries and cities, and will even become an important segment that can drive Hong Kong's economic progress and development; in order to facilitate the rapid and sustainable development of the Internet economy, the Government's participation and policy support are indispensable key elements; in this connection, this Council urges the Government to:

- (a) proactively study the establishment of an innovation and technology bureau specially tasked to co-ordinate and formulate Hong Kong's overall strategy of developing innovation and technology, so as to manifest the Government's determination and commitment in promoting the development of innovation and technology, and upgrade Hong Kong's international status in this respect;
- (b) provide preferential policies including land and taxation concessions, etc., to attract more enterprises on the Mainland and overseas, especially large technological enterprises, to come to Hong Kong for development or even set up headquarters in Hong Kong, so as to bring fresh impetus to Hong Kong's Internet economy and create more employment opportunities;
- (c) provide local universities and technological research institutes with sufficient resources, and to tie in the relevant policies, so as to train more talents for developing innovation and technology, and promote the productization of university technological research projects; with the large enterprises from the Mainland and overseas coming to develop in Hong Kong, increase the opportunities for their exchanges with local talents, so as to upgrade the skills, quality and visions of local talents; and
- (d) strive for social and public recognition of developing innovation and technology in Hong Kong, so as to create an atmosphere and cultural environment of universal support for promoting innovation and technology and fostering the development of the Internet economy."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Samson TAM be passed.

We still have some 10 minutes before 9 pm. I am sure that this motion debate can be completed before midnight. So I shall adjourn the meeting after all items of business on the Agenda have been finished.

PRESIDENT (in Cantonese): Two Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will first call upon Dr PAN Pey-chyou to speak, to be followed by Ms Emily LAU; but they may not move the amendments at this stage.

DR PAN PEY-CHYOU (in Cantonese): President, as a Legislative Council Member of the current term, I proposed my "maiden" motion debate in this Chamber on 3 June 2009, which was "Promoting research and development".

You may wonder why I am so interested in this topic. Actually this is because of my own job. Being a senior psychiatrist in the Hospital Authority (HA), apart from the clinical work, I have to supervise young trainee psychiatrists. One of the tasks is to guide them to conduct medical research.

At present, the Hong Kong College of Psychiatrists has divided the professional examination (that is, the process which a trainee psychiatrist has to undergo in order to become a specialist) into three parts. The third part of the examination requires a trainee psychiatrist to spend two years to conduct a medical research and write a thesis and then take an oral exam. Why is there such a requirement? Actually the objective of the College is that all psychiatric specialists will be able to conduct medical research independently. Through conducting a medical research, a specialist is not only trained in carrying out research in the future, he will also learn how to interpret the results of other people's research reports and apply the relevant results in his daily clinical work.

After some 10 years, research has now become a common practice in the profession of psychiatry. Very often our colleagues will use their own time and even personal resources to conduct small-scale clinical researches. The situation is more or less the same in other medical specialties. Hence, at present, medical research is a common practice prevalent in the HA.

I have spoken a lot about scientific research. In fact, scientific research is inseparable from innovative technology. Very often, scientific research starts from a kind of curiosity, a desire to find out the truth, but there are also some scientific researches which are based on established objectives. To attain certain objectives, there is the need to make certain inventions or develop some new products. Both types of researches exist.

Nevertheless, scientific research can be regarded as the mother of innovative technology because if there is no scientific research, there will not be any invention at all. Neither will there be any innovation. Regarding enterprises which develop innovative technology, on the one hand they certainly need to rely on the knowledge and invention of autonomous innovation, and on the other hand, very often they can also buy other people's inventions. The two of them are complementary.

Here I would like to talk about Hong Kong's current position with respect to innovation and technology. Let me quote three rankings. The first one is from the World Competitiveness Yearbook of the Swiss-based International Institute for Management Development (IMD). In the yearbook for 2011, both Hong Kong and the United States ranked first in the world, but under the sub-item of scientific infrastructure, Hong Kong ranked 23rd. The ranking of 23rd among 59 places in the world is indeed not very satisfactory. Another one is the ranking under the Global Innovation Index (GII) 2011 of the European Institute of Business Administration. According to this index, Hong Kong ranked fourth among 125 regions and countries in the world, being just below Singapore. However, let us look further at the sub-items. In human capital and research, Hong Kong ranked 30th. Under the sub-item of scientific outputs, Hong Kong ranked 24th. Next, let us look at the report on the competitiveness of Chinese cities published by the China Academy of Social Sciences this year. Hong Kong's overall competitiveness ranked first among all the Chinese cities, but in terms of competitiveness in innovation and technology, Hong Kong's position was 26th. These three indexes clearly illustrate one point, that is, our

research and development (R&D) as well as innovation and technology lag far behind our competitiveness and innovative capability.

It has been two years since I proposed the said motion. As the period was short, we did not expect the Government to achieve a lot of things. However, looking back at Hong Kong's development in innovation and technology in the past few years, I really feel a bit disappointed. Take a very simple indicator, the proportion of R&D in the gross domestic product (GDP), as an example. In 2005, the proportion was 0.79%. This year, as I learnt from the Financial Secretary's blog a couple of days ago, the recent figure has remained the same, which is 0.79%. We have stayed put in these five years. What else can I say?

Hence, I find this motion debate proposed by Dr Samson TAM today highly valuable. Moreover, I would like to take this opportunity to talk about a few proposals of the Hong Kong Federation of Trade Unions and the principles behind.

Of course, we absolutely support the setting up of an innovation and technology bureau. Dr Samson TAM has just stated the reasons. We propose that the development of innovative technology should adopt a development strategy which accords priority to employment. Why do I say so? Because the results to be attained will depend on the strategy adopted. If the strategy aims at helping investors to make more money, then Hong Kong will become a stepping stone, as scientific research and production of such high-tech products will be carried out in the Mainland or other places. However, if the direction of the development is to create more jobs for wage earners so that young people in Hong Kong will have better prospects, then Hong Kong can be developed into a base where some of the R&D work can be conducted here, and Hong Kong can also serve as the administrative headquarter. Legal aid, accounting services and logistics services can also be developed, thus giving impetus to this whole industrial chain.

The second issue which I would like to talk about is the necessity to enhance patent protection. The current patent system in Hong Kong provides no protection to inventors at all. At present, there are two types of patents in Hong Kong. One is standard patent while the other one is short-term patent. Yet what is ridiculous is that the invention must first be registered in the Mainland, the United Kingdom or Europe. Hong Kong will simply add the patent onto the

registration list without making any examination. In case there is any dispute, such registration cannot provide any protection. The relevant dispute will only be handled through the usual legal proceedings, but the Judges do not have the expertise of scientific research and invention. Such an outdated system is far from being in line with Hong Kong's current need to serve as an innovation and technology centre. Thus I very much hope that the Government can expeditiously conduct a review to improve our patent system to provide inventors with genuine protection.

The third point is that co-operation with the Mainland is vital. Today, the Mainland is no longer a backward country. According to the latest figures, in terms of purchasing power, the amount of funds invested by Mainland China in R&D accounted for 12.3% of the global investment in R&D, only second to the United States and overtaking Japan. Guangdong Province is even more ambitious in this regard. As we know, they intend to raise the percentage of R&D in GDP to 2.5% in 2012, surpassing the United States. They have also planned to develop three to five high-tech industrial clusters to push ahead the economic development of Guangdong Province. The 12th Five-Year Plan and the Framework Agreement on Hong Kong/Guangdong Co-operation have facilitated us administratively and structurally to work with the Mainland to develop products together and complement each other in R&D.

Lastly, Ms Emily LAU has mentioned the problem of Cyberport. Very often, the mentioning of Cyberport would make Hong Kong people feel uneasy, the issue is unpleasant to talk about. It can be said that Cyberport and Science Park are two brothers, both of them were born almost at the same time. The elder brother got down to earnest work and eventually his efforts bore fruit. Yet the younger brother kind of ignored his proper work and ended up "crying up wine but selling vinegar". What a pity it was. I believe that the Government was too anxious to make an accomplishment back then. Nevertheless, lessons from the past can guide the future. We utterly agree that we need to prevent such things from happening again in the future.

President, owing to the positive non-intervention policy adopted by the colonial Government in the past, coupled with the attitude of muddling along with regard to the development prospects, innovation and technology did not attain proper development in Hong Kong. Yet the situation after the reunification was different. We should develop high technologies in Hong Kong

in down-to-earth manners. Moreover, with the highly favourable conditions in Hong Kong, we believe that Hong Kong has potential for development.

I so submit.

MS EMILY LAU (in Cantonese): President, as Dr TAM and Dr PAN have said, I believe innovation and technology are highly important to the economic development of any country or city. Hence, the Democratic Party certainly supports injection of more efforts and resources in this regard to strive for the best.

As Dr PAN has just mentioned, according to the latest figures, the percentage of Hong Kong's investment in research and development (R&D) only accounted for 0.79% of the gross domestic product. Actually, as Dr PAN also mentioned just now, the figure in 2005 was 0.79%. In 2006 it increased slightly to 0.81%. In 2007 it dropped to 0.77%, and now it is 0.79%. The percentages which I have mentioned are figures up to 2007. When the Administration submitted these figures to the Finance Committee in 2010, we had some arguments. We all said that Hong Kong had done little work and suggested making comparisons with other places. Among the various countries, Japan had the highest ranking with its figure being 3.6%. Korea ranked second with 3.47%. Taiwan ranked third with 2.62%. All the three of them were Asian countries. Then the fourth place went to Singapore and the United States, both having 2.61%. Mainland China ranked fifth with 1.49%. Ireland ranked sixth with 1.28%. The figure of Hong Kong, however, was only 0.77%. President, it was unreasonable, was it not? The Administration tried to give an explanation, saying that Hong Kong did not have any expenditure on national defence. However, even if we put aside the expenditure on national defence, our figure was still very low.

Dr PAN has told us that the present figure still stands at such a low level. I think this is really frustrating. President, the injection of resources in innovation and technology is a consensus of the Legislative Council. I did not hear Members raise any objection. However, even though there is no objection from Members, the Government still does not do anything. If there was objection from Members, no consensus had been reached and opinions were divergent, that could be explained away. However, there is now a unanimous

view and concern. A delegation of the Legislative Council led by Mr WONG Ting-kwong is going to visit the Science Park tomorrow. Members are very concerned about the matter. The Science Park also hopes that we will conduct a visit to look into their work, and what matters most is the application. The Polytechnic University also asked us to visit it more, President, and we did. What matters is not only research but also the application of the technology. The Government also needs to assist in promotion. Yet it has done nothing or has done just very little.

President, I mentioned in the debate last week that Dr Samson TAM had invited me to attend a seminar on 25 June. Director NI of the Chinese Academy of Social Sciences was invited to attend the seminar, as Dr PAN also mentioned just now. During the seminar, the Chinese Academy of Social Sciences made a power-point presentation, comparing the competitiveness of different places. What are the edges that Hong Kong has in technology and innovation? President, Director NI said that we have world class universities. We have professional R&D institutions and a science and technology park. We also have an international financial network, mature venture capital, financial services with comprehensive ancillary facilities, a sound legal system, a good system to protect intellectual property, the latest market information, advanced supporting facilities, a highly efficient and clean government, a trend to triumph by service and innovation, a free economy, the best environment for starting business, quality enterprises and management experience, academic freedom, the spirit of perseverance, the tradition of tolerance and pluralism, as well as integration of the eastern and western cultures. These are Hong Kong's edges according to Beijing.

President, Director NI also talked about our inadequacies in technology and innovation. He pointed out that the enterprises in Hong Kong lacked motivation for technological innovation, tactics of avoiding risks, incentive measures, a cultural atmosphere and conditions for technological innovation, and a mechanism for integration of production, study and research. We also lacked a system for innovation service, as well as a public platform for innovation. He added that the average intake and the ratio of international students in the Hong Kong universities were low. President, as you know, only 18% of secondary school students can be admitted to the universities in Hong Kong. This is also low compared with our competitors. Besides, half of Hong Kong's labour force have only completed Form Three education or below. President, what should

we do? Although it is said that Hong Kong has competitive edges, we have made repeated blunders which have caused Hong Kong to lose these existing edges.

Hence, I propose the amendment, since we do have the edges. Dr PAN has mentioned the Cyberport project. Mr TUNG Chee-hwa proposed this project on 3 March 1999, which was implemented in the Budget right away without any consultation. He even "assigned" the development to Richard LI, LI Ka-shing's son, and provided the Pacific Century Group with a site of 24 hectares. He gave Richard LI the best site at Telegraph Bay, saying that he wanted to develop innovative technology by means of real estate development. At that time, other property developers came to the Legislative Council to have a meeting with us on the second floor. All those property developers who are not surnamed LI were very angry. After the meeting, they went to the Government Headquarters to discuss the issue with the Government. After the discussion, they told us that they had been "slapped in the face" by the Government repeatedly. They asked why they should support the Special Administrative Region Government any more. The property developers were very angry, so were the other people.

President, looking back at the record, we learnt that on 26 January 1999, K C KWONG, the then Secretary for Information Technology and Broadcasting, wrote down five questions in the Government's internal memorandum: Why was the site given to the Pacific Century Group? Why was there no open tender? Why was the site at Telegraph Bay selected? Why was the development of Cyberport to be supported by way of property development? Why was this industry chosen? He raised these questions on 26 January. Regrettably, on 11 February, K C KWONG came forward to support the Government's proposal. What happened in between those dates? Neither the President nor I have any idea.

Hence, I have to propose this amendment. President, we also support finding ways to make special offers to attract local people and foreigners to develop innovative technology in Hong Kong. This is not a problem. However, it has to be open, fair and impartial, with details of the special offers made known to everyone In 1999, the Government was asked, what if the other property developers also indicated that they were interested in participating in the development? Suppose other property developers said, since the Government wanted to make such development and provided such a quality site

for construction of buildings, they were interested to assist in the development too. Would they get a chance? The answer was no. The Government insisted on letting Richard LI make the development. President, how ridiculous it was. That is why some people say that Hong Kong is indeed a city of the LIs.

Hence, we hope that if the Administration accepts Dr Samson TAM's proposal on developing innovative technology, it should let members of the public know what advantages may be provided to developers with openness, fairness and transparency. President, at the said seminar, the last person who spoke during the open session said that real estate had ruined the development of information and technology because real estate development had led to high costs, thereby making it difficult for information and technology to develop. In fact, real estate had not only ruined the information and technology industry but also many other trades. He pointed out that with exorbitant rents, people were unable to find any places to rent. Yet I think they can actually find cheap places at Cyberport, because no one rent the places there.

President, I propose this amendment, hoping that we will learn a lesson. Even if the Government wants to provide the developers with any advantage in the future, it will have to make it open so that everyone can compete and strive for it. Other places also work this way. There is no problem with the provision of advantages. Yet the Government, for no reasons, discreetly "assigned" the project to a property developer without the knowledge of the people in society. Moreover, afterwards, it continued to allow this property developer to carry out the development despite the people's objection, ending up in such a mess now. I do not have any more time to read out the so-called mission of Cyberport. Has Cyberport achieved its mission? Now we just regard it as a joke. Every time Cyberport is mentioned, it is referred to as a property project which will sometimes stage some performances. I also wonder if that hotel has any business, since few people go there. Nevertheless, maybe Cyberport does not need these things. Yet the Government has still got to tell us whether it has achieved the mission stated at that time, as we do not wish to commit the same mistake again.

President, we hope that the Administration will promote technological development, but if it wants to make a special offer to anyone, it has to make clear to those who also wish to get the special offer that they will have the chance

to compete for the offer, and that the special offer will be awarded to the best candidate who is most capable of helping Hong Kong. I so submit.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Dr Samson TAM for moving this motion so that I can indicate again to Members the SAR Government's determination and commitment to developing innovation and technology.

In June 2009 during the recovery of Hong Kong after the financial tsunami, the SAR Government announced that it would vigorously develop six industries, including innovation and technology, with a view to achieving diversified economic development. Developing innovation and technology is the general trend in the new century; it is a bright spot for countries striving to achieve economic growth and it is also the key to global sustainable development. We are definitely moving along the right path.

In the past two years, the SAR Government has continuously increased its support for innovation and technology, and the community has attached increasing importance to this industry with a competitive edge. We have strengthened our support for the industry in respect of scientific research infrastructure, as well as research and development funds; moreover, we have proactively organized and supported various types of activities to promote the innovation and technology culture to the public. I would like to thank Members for their continuous strong support of the Government's work on innovation and technology, and I am looking forward to making concerted efforts with Members for more vigorous development of the industry.

President, I would like to listen to the valuable views of Members and respond in detail when I make a concluding speech. Thank you, President.

MR RONNY TONG (in Cantonese): President, just like many issues that have been discussed in this Council time and again, the motion moved by Dr Samson TAM today is nothing new and not very controversial. However, as in the case of many other issues discussed, our lengthy discussions will not be fruitful. We can almost be certain that this motion can be passed. However, whether or not

this motion will go down the drain after its passage, as in the case of many other motions, I believe none of us is optimistic.

Dr NI Pengfei, Director of the City and Competitiveness Research Centre under the Chinese Academy of Social Sciences, has recently stated that the percentage of scientific research investment in the Gross Domestic Product (GDP) should generally be 3%. Nevertheless, if we check the figures on the Innovation and Technology Commission provided by the Government, we will find that, as some Honourable colleagues have just mentioned, the relevant percentage in Hong Kong has increased from 0.55% in 2001 to 0.79% in 2009; that is, there has been an increase of only 0.24% in eight years. The rate of 0.24% certainly fails to keep pace with inflation, and it completely fails to keep pace with the rate of increase in GDP.

What has the Innovation and Technology Commission done in recent years? Recently, the Government has taken a small step forward. For example, the Government proposed, in the Policy Address last year, the setting up of the Research and Development Cash Rebate Scheme with a commitment of \$200 million. The Scheme has a long name but its objective is very simple. It is just an alternative tax incentive scheme; perhaps the Secretary can later provide us with some information on how effective it is in promoting scientific research.

The Government's second measure is to allocate \$4.9 billion in April last year to subsidize the implementation of the Phase III development of the Hong Kong Science Park. Many people think that the Science Park is just an infrastructure development project. It is true that it can provide scientific research companies and personnel with places for work and getting together. I hope that the Secretary would later tell us how effective the project is in promoting science and technology.

It seems that the Innovation and Technology Fund is the only project that has made greater progress. The relevant figures have progressively increased year after year, from some \$480 million in the year 2007-2008 to some \$720 million in the year 2009-2010. On the whole, these measures can only increase the percentage of scientific research investment in the GDP from 0.5% to less than 1%. This reflects that the Government has made very little investment as compared with other countries where the Government makes investment in universities or provides incentives to universities for conducting scientific and

technological research projects that will make contributions to industries. Comparing Hong Kong with other countries, we can see that other countries have invested a lot of resources for top universities to conduct innovative scientific research.

I need not say too much as I believe that Honourable colleagues will certainly support this motion today. Moreover, Dr TAM just proposes, in his motion, to study the establishment of the bureau, so there is no reason why we should raise objection. Nonetheless, I must say that Dr TAM's motion will bring up another governance issue because he proposes the establishment of an innovation and technology bureau. I think his proposal actually criticizes the Secretary, though in a more polite way. This criticism is probably not so much about the incumbent Secretary who has recently assumed office. The former Secretary should be the one to be criticized because she had not done a good job.

The problem is, if nobody in the governance structure promotes certain policies or is willing to promote these policies or has been ineffective in promoting policies, the setting up of another bureau to handle the work will lead to endless troubles. If such practice is adopted, we can upgrade the Hong Kong Tourism Board to a bureau, and we can establish the bureau for the resumption of the Home Ownership Scheme, the healthcare financing bureau, the universal retirement protection bureau and even the cruise industry development bureau. At that time, the number of bureaux may exceed the number of civil servants, and the Directors of Bureaux will eventually find that they need not take part in all matters.

President, the above examples may sound exaggerating but I wish to say that, we are now discussing how the policies should be promoted and we do not want to establish a cumbersome structure so that the government structure will become increasingly complicated and colossal. What we are going to do is approved by all people, even the Chief Executive, and the objective is "big market, small government" rather than "small market, big government". If a new bureau is established to handle any policy because the Government is unwilling to listen to opinions or is incompetent, it will bring great troubles for the Government. Fortunately, Dr TAM does not insist on establishing such a bureau; he has just proposed that a study should be conducted. Nonetheless, I would like to tell Dr TAM, a study need not be conducted. Now that the community has reached a consensus, and in particular, this Council has reached a

consensus, it is most important to push the Secretary to practically undertake the work. As the Secretary has just assumed office, he may not be very busy; I hope that he would work harder in this area, instead of establishing another bureau to perform some of his duties. I definitely do not agree that he should do so.

President, as I have just said, we fully agree with the spirit and objective of this motion; I just do not want to establish a cumbersome structure and I think that we would not oppose Dr TAM's motion.

DR RAYMOND HO (in Cantonese): President, talking about an innovation and technology bureau, I find the subject a little saddening because starting from 1980s and early 1990s onwards, I have participated in quite a lot of work concerning government policy on industrial technology. I was also a member of the Industrial Technology Development Council which was chaired by the then Financial Secretary, Sir Hamish MacLEOD and involved the work of six Secretaries. I had also served the technology committee for a few years, the main task was to promote the work of automatization.

At that time, we opined that technological development in the Mainland was relatively slow and Hong Kong occupied a prestigious position in the Asian region. The six universities conducted many researches and had proposed a roadmap on technological development to the Government.

When it comes to technology, the leader at that time was certainly the United States. The fastest mega computer was developed by the United States. Because of the Paris Convention, many latest and most advanced technologies were simply not allowed to export to the Mainland. However, with the shockingly-rapid technological development in the Mainland in the past some 10 to 20 years, China has already surpassed the United States. The fastest mega computer at present is developed by China. Moreover, in a matter of a few years, China has constructed the 16 000 km-long and world-fastest High-speed Rail, making a record of fastest train in world history. The construction of a vacuum tube super train running at a target speed of over 500 km per hour is now under research in the Mainland. Besides, space technology has also matured in China.

Contrarily, Hong Kong has only established a Science Park over the years. Nevertheless, it is some achievement, but the Science Park was made possible

only after years of repeated discussion. I very much echo what some Members have said that the resources invested in technology or technological research are too little in Hong Kong. At present, the corresponding investment ratio in Japan 3.36%, but back in the 1980s and 1990s, its ratio was below 3%. More importantly, although such a large percentage of Japan's resources have been invested on technological research and technological development, the resources largely come from enterprises, not the Government. In the 1970s and 1980s, the Japanese Government might still be the institution which invested the most resources on this end, according to the information contained in a book, but their enterprises later took over and made the investment. Why are we incapable of promoting development in this regard in Hong Kong? It is because we do not have a bureau to take the lead. At present, the Commerce and Economic Development Bureau appears to be tasked with technological development, but commerce and the economy are two separate portfolios and concentrated efforts should be made in developing technology.

A decade or so ago, The Hong Kong University of Science and Technology worked jointly with the Chinese Academy of Engineering in promoting the industrialization of new and high technologies, after which technological development leaped forward in the Mainland with many university technological research projects successfully industrialized. Yet, on the part of Hong Kong, I find very few new and high technologies which can truly be industrialized or be granted important patents.

In the past decade, information technology in Hong Kong has developed rapidly and the Internet has gained increasing popularity, showing that the development of Hong Kong, as evidenced by government statistics, is quite well. The widespread popularity of technologies such as smart phones and tablet computers add great impetus to commercial development, but these developments alone are not enough.

Rapid progress fostered by global economic integration has sparked fierce competition, but the competitiveness of Hong Kong has lagged behind others. We are gradually losing our competitive edge and have missed many opportunities to integrate and co-operate with the Mainland, the opportunities in which we can offer mutual support, enhancement and encouragement to our Mainland counterpart and work towards the same goal together. The blame goes to the fact that we do not have a specialized bureau to pool manpower and formulate policy in promoting the development of technology. We should make

full use of our remaining strengths in this area and one of which is our sensitivity with international markets, which can help us to further develop our strength in this area. In fact, we still have our edge in terms of importing top-notch technologies around the world because some of such technologies have not been imported to the Mainland. Moreover, we have many elites graduated from our tertiary institutions and the Government has also injected a lot of valuable resources in this area, except that, with much regrets, these talents and valuable facilities have not been put to full use.

I echo my colleagues' views in that we need not spend any more energy on examining this issue because it has been discussed for far too long. Any more discussion is meaningless. The Government should pragmatically take forward the work in this area, so as to dispel the criticism that it is a lip-service government with no real actions. Nevertheless, the present discussion can still be idle theories as the Government can acknowledge our proposals in its reply just for a show. I hope that the Government can at least pragmatically establish a bureau on innovation and technology with centralized local support, talents and strategies, so as to keep abreast of the development in technology. Thank you, President.

MS STARRY LEE (in Cantonese): President, a city has to make proper use of its technology to maintain its competitiveness. People in many places hold a similar view. However, Hong Kong is a strange place. We may not necessarily echo what people in other cities regard as correct. In Hong Kong, I do not think people have reached a consensus on the development of technology. "Low tech invites a fortune, high tech invites a misfortune" is still a common belief to many people.

I certainly do not agree with this saying because, as a matter of fact, there is probably no better way out than pursuing high technology if a city wants to be developed or a person wants to be more cultivated. This is particularly true for Hong Kong which is such an unusual city due to its high cost including high land premium and high wage level.

Many people say that Hong Kong lacks a base for the manufacturing industries, which has smothered the development of its innovative technology and product research. In the 30 years since the reform and opening up of the

Mainland, the manufacturing industries of Hong Kong have massively relocated their operation and development northward, so as to tap the cheap labour resources in the Mainland. To date, such development has resulted in the manufacturing industries being unable to upgrade and transform their operation. This, however, has spared the room necessary for the rapid expansion of our service industries.

Many people think that Hong Kong is a city of commerce, but very few think that Hong Kong is a city of technology. One of the major reasons is that the manufacturing base in Hong Kong is relatively small. However, with the increasingly inseparable development and rapid integration between Hong Kong and the Mainland, we should not limit our perspective to Hong Kong in reviewing this subject, and we should also take into consideration the opportunities provided to us by the Mainland. As far as our industrial base is concerned, we should not just mention we should not just consider Hong Kong, thinking that Hong Kong is too small; instead, we should extend our perspective to the Pearl River Delta (PRD) hinterland adjacent to it, or even the larger hinterland further away. Hence, if Hong Kong can capitalize on its strengths in information, network, marketing, as well as research and development, and use the strengths of the manufacturing bases in the PRD Region and other places in the Mainland to make up for our weaknesses, I believe Hong Kong still has great potential in developing high technology.

Some people say that Hong Kong does not have talents for technological research, but I beg to differ having considered the recent development in Hong Kong. The decade-old Hong Kong University of Science and Technology has collaborated with 350 renowned technological research institutes around the world with over 8 000 related talents conducting research and development on an ongoing basis. Moreover, the University of Hong Kong, The Chinese University of Hong Kong as well as The Hong Kong University of Science and Technology are top-notch tertiary institutes in Asia and they are renowned world-wide. These universities have gathered many elitists who have made many achievements in advance technology and have trained many talents. Take The Hong Kong University of Science and Technology as an example, its School of Engineering is in the world top 30 and its School of Science ranks first in Asia. Besides, our research in nanotechnology and biotechnology are up to international standard. In the past year alone, honours were bestowed to many Hong Kong scientists, including such honours as the State Scientific and

Technological Progress Award and the Asian Innovation Award, showing Hong Kong's strength in this area is not as weak as others may have thought.

However, in comparison with technological development in other regions and countries, I agree that we need to work harder. The Secretary said just now that he came here today to tell us that the Government has not slowed down its efforts in this regard. However, statistics indicate that resources invested in this area have been very limited, which is another area that we need to put in more efforts. In Singapore, over US\$8.5 billion has been invested within the past four years to develop 17 world-class education and research institutes in new and high technologies. In the United States, despite the OBAMA government is plagued with grave financial deficit and in the midst of a financial crisis, he still increased the allocation for the National Science Foundation. Expenditure on research and development accounts for 2.7% of its gross domestic product in the United States and, as other colleagues have just mentioned, the corresponding percentage in the Singapore was 2.4%, while Hong Kong only has a pathetic 0.7%. Should our Government not invest more in innovation and technology, so as to take forward this important piece of work? We thus hope that the new Secretary, although he has not much time left in his term of office, can introduce a new mindset and make an extra effort in developing innovation and technology.

To begin with, we hold that a government establishment capable of promoting the development of innovation and technology efforts should be set up in Hong Kong to facilitate the development of related industries on a long-term basis and in a macro scale. We understand that the development of innovation and technology cannot be taken forward by the effort of a single department. It thus requires the concerted efforts of different departments, including the co-operation and co-ordination of departments taking charge of the economy, education, planning and culture, so as to take the new economy to a new level. In order to take a big leap forward in Hong Kong's innovative technologies and creative economy, I believe that a specialized policy bureau and departments accountable to high-level officials should be set up, so as to formulate a long-term policy and measures on the fronts of taxation, venture capital funds, financing, manpower and marketing.

A number of people in the sector have relayed to me that the biggest problem lies not in the development of new technologies, but in the lack of capital for productizing these research projects for the market. Many say that

venture capital funds or angel funds may be able to help, but one must admit that their development in Hong Kong has been very slow, which is probably due to the large number of small and medium enterprises in Hong Kong as well as the fact that the Government has not made enough effort in promoting their development.

We can draw on various overseas experience in studying how to further promote new and high technologies and scientific research development in Hong Kong. For instance, consideration can be given by the Government in providing tax exemption for expenditure used on research and development and productization of such technologies. Some governments also provide seed capitals. For example, the Finnish National Fund for Research and Development bought the shares of Nokia so as to assist its development in new and high technologies. We certainly understand that the Government cannot completely copy these overseas experiences. Nevertheless, such experiences are absolutely worth our reference.

In the end, I believe that the Government will lay the concept of "Big Market, Small Government" on the table. However, as a number of colleagues have said, this will not be the case if we agree that technology is the most important element in enhancing the competitiveness of a city. This is particularly true for Hong Kong because of our unique environment. I hope the Government can adopt a pragmatic approach and play the role of an active facilitator, so that new and high technology can successfully find its place in Hong Kong and that when people talk about Hong Kong, they will say that Hong Kong is a city of technology, not just a city of commerce and equity. I hope that one day people will recognize that Hong Kong is a city of technology.

President, I so submit.

MS MIRIAM LAU (in Cantonese): President, it is an indisputable fact that the competitiveness of Mainland cities has gradually come up to that of Hong Kong. According to the 2011 Report on Chinese City Competitiveness published by the Chinese Academy of Social Sciences last year, although Hong Kong has topped the country in terms of its integrated competitiveness in six consecutive years, our competitive edge is diminishing. Premier WEN Jiabao had also reminded Hong Kong at the press conference of this year's Standing Committee of the National

People's Congress that we had to attach importance to education and technology and develop small-scale innovative technology enterprises, so as to increase employment.

We believe that under the trend of global economic integration and the development of a knowledge-based economy, the only proper course to facilitate economic transformation is to increase investment on innovation and technology, which is also the obvious option for Hong Kong. Otherwise, Hong Kong may be ousted in the historic torrent of development.

Despite a Steering Committee on Innovation and Technology has been established in Hong Kong with the Financial Secretary and the Secretary for Commerce and Economic Development as its Chairman and Deputy Chairman respectively, the two officials are not specialized in formulating policy on the development of innovation and technology and very few meetings have been convened. The actual effect of the Steering Committee is inevitable doubtful. We thus echo that the Commerce and Economic Development Bureau should hand over the power of formulating policy on innovation and technology to a new Policy Bureau.

President, the Liberal Party is of the view that no matter an innovation and technology bureau is established or now, the present policy and regulations on the development of innovation and technology should be reviewed and the administrative procedures should be streamlined, so as to encourage the sector, particularly small and medium enterprises (SMEs) to take part in technological research and development. A favourable environment (including funding and patent application procedures) for developing innovation and technology should be created, so as to effectively assist local enterprises to participate in technological research, improve the environment for conducting relevant businesses and for research and development, and attract overseas enterprises to participate in intellectual property exchange programmes in Hong Kong.

Moreover, we hold that consideration should be given to rationalize and merge different existing technological research institutes and departments. For instance, the management of the five Research and Development Centres under the Innovation and Technology Commission can be merged with that of the Hong Kong Science Park and the three industrial estates under the Hong Kong Science and Technology Parks Corporation for more efficient operation.

All in all, the Government should set out a clear direction in its policy and invest more resources on the development of innovation and technology. Let us look at South Korea. With the export of its technological products, South Korea is the first country to revive from the Asian financial turmoil. Its gross national product (GNP) rose by 6.1% last year, making a new record high in eight years. Despite the impact of the financial tsunami, South Korea has still earmarked almost US\$20 billion for the years from 2009 to 2014 to comprehensively upgrade its national key industry, that is, its information technology industry.

The question is whether Hong Kong can follow the example of South Korea and step up its efforts to boldly launch creative projects and hammer out a forward-looking policy on innovation and technology, and whether it is determined to move towards an innovation and technology-oriented economy and find a new way out for the economy of Hong Kong.

President, innovation is actually not restricted to technology; it can also be expressed in other forms. For instance, it can be used in launching new products or services and in improving quality; it can be expressed in the form of creative ideas on production, packaging, marketing and retailing, or on new market development.

Limited by their finance and assets, local SMEs may not be able to contribute a lot on the front of technological research, but they can at least play their part by using new technologies and making an effort to transform their operation. Hence, the Liberal Party has repeatedly proposed the establishment of a \$500-million fund for upgrading and transformation of SMEs, so as to provide aspiring SMEs with the necessary funding for software development in respect of technology application, commercial consultant service and brand building. For instance, each eligible enterprise can take out a maximum loan of \$500,000 with the Government providing an 80% credit guarantee, so that SMEs can secure the funding necessary for its further development through upgrading and transformation.

With respect to Dr PAN Pey-chyou's amendment, we support his proposals of providing taxation concessions to attract overseas enterprises to Hong Kong and thereby creating more employment opportunities, as well as earmarking more land for innovation and technology and establishing a platform for innovation and technology industries in Hong Kong and the Mainland. In fact, the Liberal Party

has repeatedly proposed that the Government can consider raising the ceiling of technological research costs that may be deducted from taxation from 100% at present to 300%, so as to attract private enterprises to invest on technological research and development.

President, Hong Kong lags far behind from other countries in respect of investment on technological research. Just now, a number of colleagues have expounded on this subject and have provided us with lots of statistics; I do not think we need to say any more about this. We all know that our investment on technological research only accounts for 0.67% or 0.7% of our gross domestic product (GDP), while the relevant investments in Singapore, Taiwan and South Korea account for about 2.2% to 2.8% of their GNP; in the Mainland, the relevant investment also accounts for 1.5% of its GNP and will be gradually increased to 2.2%. As compared with our neighbouring regions and countries, our percentage is really pathetically low. Thus, it is necessary to increase our investment in this regard or even provide that government investment on innovation and technology must be set at a certain percentage of the GDP, so as to serve the purpose of boosting technological research.

With respect to Ms Emily LAU's amendment proposing that the SAR Government should learn from the experience of developing Cyberport and refrain from packaging property development projects as innovation and technology schemes, we basically concur with her view.

President, I so submit.

MRS REGINA IP (in Cantonese): President, I am delighted that I can return in time to participate in this debate and speak in support of Dr Samson TAM's motion. About three or four years ago when Dr TAM and I were not Members of this Council, I remember the first measure after Chief Executive Donald TSANG came into office in 2007 was to remove the word "Technology" from the name of the Commerce, Industry and Technology Bureau which was led by the then Secretary Joseph WONG. I believe Dr TAM also remembers this. At that time, the decision had taken the technology sector by surprise.

It had long been a traditional belief of the British Hong Kong Government that Hong Kong could prosper by merely engaging in commercial activities; and

given that Hong Kong is a free port, the British Hong Kong Government thought that as long as Hong Kong maintained its position as a free port and its geographical advantage, its economy would thrive naturally and there was simply no place for technology to develop. The posts of Secretaries of Departments and Directors of Bureaux in the Government have all along been taken up by civil officials. This is different from Taiwan, Singapore, Korea or our Motherland where the portfolio of technology is often taken up by engineers. Officials in Hong Kong have little interest in technology, thus they do not know how to find a proper place for the portfolio of technology to fit in.

After the reunification, an Information Technology and Broadcasting Bureau has been established which was then replaced by the Commerce, Industry and Technology Bureau in 2002, and the word "Technology" was at least in the names of the Bureaux. Information technology is actually very important. It can be said as the underlying driver because whether you are in the service industries or the manufacturing industries, you need to use information technology. Nowadays, the global technological revolution is propelled by the rapidly advancing information technology. In the era of Mr TUNG Chee-hwa, there was the Information Technology and Broadcasting Bureau and later there was the Commerce, Industry and Technology Bureau. However, we do not know why after Mr Donald TSANG came into office, he seemed to hate technology to such an extent that he had removed the word "technology" from the name of the bureau. His decision had led to a demonstration staged by the grumbling technological sector outside the Legislative Council under a burning sun.

Why has a study not been conducted? Dr TAM told me the reason. His wordings were very implicit because he wanted to secure more support from colleagues for the passage of his motion. We have been examining this issue for too long. By the way, let me tell Secretary Gregory SO that my humble think tank has spent some US\$600,000 to US\$700,000 to conduct a research and the report was published last October which is now on sale at the Amazon website at some US\$70 to US\$80. The sales have been quite good and the report can be used as a textbook as well. I have given a complimentary copy of the report to the then Secretary Mrs Rita LAU and I am not sure if Secretary Gregory SO is aware of this. I am glad that he nodded just now. The research has already been conducted with our own money I also need to thank Dr TAM for his sponsorship. We have spent much effort in fund raising. We have also applied for funding from the Innovation and Technology Commission because we have

met the requirement of securing sponsorship of 10% of the total funding cost. I thus also have to thank the Government for its sponsorship.

In fact, the research is a continuation of a research done at the time when I worked in the former Industry Department in the 1990s. At that time, we were already aware of the need for Hong Kong to diversify our industries. The Massachusetts Institute of Technology told us that researches on the policy and future bearing of industries were done around the world, examining the impact of "Made by the United States", "Made by Japan" or "Made by Sweden" on their economies. In the era of the British Hong Kong governance, the former Industry Department also commissioned the Massachusetts Institute of Technology to conduct a research on "Made by Hong Kong". When I returned to Hong Kong in 2006 after staying in the Silicon Valley for four years, I truly thought that the mode of operation adopted in the Silicon Valley was the way forward for a knowledge-based economy.

That is why I have made every effort to raise funds after coming back to Hong Kong, so as to gather a group of international scholars to conduct this research. I really hope that the Secretary can make the effort to read this book. I have also sent a complimentary copy to the Innovation and Technology Commission and one for the Financial Secretary. I wished to give the copy to the Financial Secretary in person, so as to take a photograph for publicity, but it took so long to make the meeting arrangement that it was longer than waiting for the \$6,000 cash handouts. I do not remember how long it took after calling Mr Frankie YIP and embarrassingly asking for an opportunity to take a photograph with the Financial Secretary for the research report. Notwithstanding, I cannot blame the SAR Government because there was no news coverage after taking the photograph. President, how pitiful it is. The information is so important, the research can be regarded as a textbook, but no one has inquired after it. I thus cannot blame the Government as this is part of the Hong Kong's culture which should be changed.

However, what I want to say is, I totally support the setting up of an independent innovation and technology bureau and the word "innovation" should precede the word "technology". As many colleagues as well as Ms Miriam LAU have just pointed out, not all innovation projects rely on technology. While some such projects do rely on technology, some, such as those related to the mode of management and the manufacturing process, do not. However, one

way or the other, innovation and technology are the impetus for increasing the economic value of Hong Kong.

Take a look at overseas countries or regions such as Israel, Singapore, Korea, Sweden and the United States which truly value the importance of technology and you will find that they will first establish a technology committee. In the United States, such a committee is under the Executive Office of the President, symbolizing the importance that the President has attached to technology. I heard just now that Ms Miriam LAU, I am not sure if it is her I forgot which Member. It was probably Ms Starry LEE who said that the United States, which is in the midst of a financial crisis, has resorted to three things as its strategies to save its economy, that is, innovation, infrastructure (this is copied from our country) and education. These three things are fundamental. The Science and Technology Council of the United States is chaired by the President himself. The same is true for Sweden and Holland. These countries all have an independent technology bureau.

Apart from an independent innovation and technology bureau, suitable talents are also indispensable. Secretary Gregory SO, I am sorry to say that although you are a brilliant lawyer, I truly think that if the next Government wishes to establish a technology bureau, it should find someone with engineering experience rather than a lawyer or an administrative officer to take charge of the bureau. It would be best to find someone with administrative experience and has worked for a technological institute in the Silicon Valley. In English, we say that we are plugged into the Silicon Valley. This is the most advance mode of operation in the world.

The research conducted by my think tank has already analysed the reasons of success of the Silicon Valley. Why are their universities able to productize their research achievements? The success of the Silicon Valley hinges on two outstanding universities in California (the University of California and the Stanford University) which have successfully productized their technological research projects. With new technology institutes continuously joining the region and new products coming to light, the Silicon Valley provides powerful impetus for the economy of the United States to roll forward. To date, their ailing economy is also sustained by the Apple Inc.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Dr Samson TAM, you may now speak on the two amendments. The speaking time limit is five minutes.

DR SAMSON TAM (in Cantonese): President, one of the points in the amendment proposed by Dr PAN Pey-chyou today is that the objective of the proposal to establish a policy bureau is to achieve economic development with employment as the priority. I fully agree to this point. This is also my biggest objective in proposing this motion.

As I can see, the present economic development has reached the state of "making money with money". Whether it be investment in property, finance or other assets, only people with money and resources will be able to make money. However, the situation in the innovation and technology industry is quite different. As Dr PAN Pey-chyou has said, the biggest merit of innovation and technology is that it accords priority to employment. In the European and American countries, only those with abilities and talent will be able to make the biggest money. Thus I very much agree that the Government should also formulate economic strategies with employment as the priority when drawing up its policies in the future.

Another item in Dr PAN's amendment concerns the use of land. Actually the use of land is an issue which the Special Administrative Region (SAR) Government has been most reluctant, most anxious and most unwilling to deal with in the past. I hope this item which Dr PAN has added in the amendment will not touch the nerve of the SAR Government. Why does Dr PAN propose this item, and why do I also find this very important? Because without land, even if businessmen wish to invest in Hong Kong, they will be forced to go to Shenzhen or Shanghai. This is the historical experience of the past years. The Government was unwilling to use land resources to attract these enterprises to invest in Hong Kong.

Hence, I hope the Government will, as proposed by Dr PAN, allocate some special sites. No matter whether it is land in the New Territories or in the river-loop areas (that means the land in between Shenzhen and Hong Kong), I hope the Government can reserve more land for future development. It will be most desirable if job positions can be retained in Hong Kong so that youngsters in Hong Kong can secure local employment without having to travel all the way to Shenzhen, Guangdong or Shanghai to pursue development.

As for Ms Emily LAU's amendment, she proposed that the provision of incentives must be conducted in transparent, open, fair and impartial manners in the future. I consider that these are absolutely important. Thus I agree with the two amendments today. President, I so submit.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Members for their views on how the Government can further develop the innovation and technology industry. Although the Government and Members may hold different views on specific proposals, we certainly have two views in common. First, innovation and technology are an important impetus for the continual development of the Hong Kong economy, and second, Government must seek the concerted efforts of different stakeholders and step up its support to the development of the industry.

Innovation and technology are important impetus to economic and social development. The SAR Government has made every effort to establish Hong Kong as the innovation and technology hub in the region. In this motion debate today, I wish to reaffirm Members that the Government is determined in developing innovation and technology and I will illustrate to Members our strategies for further developing this industry. For instance, we will step up our efforts to better integrate the hardware, policy and resources, as well as collaborating with the industry, academic and research, to give Hong Kong's edge in this area its full play.

Ms Emily LAU pointed out that Hong Kong's edges on innovation and technology lie in our world-class tertiary institutions and outstanding scientific and technological research talents, the sound intellectual property system, modern technological research infrastructure and communication network, as well as business talents gifted with a market insight and lastly, the enormous Mainland

market in the north of Hong Kong. Scientific and technological researchers in Hong Kong have repeatedly won the State Science and Technology Awards as well as international honours such as the L'Oréal-UNESCO For Women in Science Award.

Hong Kong's outstanding achievement in innovation is also internationally recognized. According to the Global Innovation Index Report 2010-2011 by the INSEAD (Institut Européen d'Administration des Affaires), Hong Kong's innovative capacity ranked fourth worldwide. Among the 12 finalists competing for the Asian Innovation Awards 2010 presented by *The Wall Street Journal Asia*, two were companies from the Hong Kong Science Park and one of them won the best innovative enterprise award.

The Commerce and Economic Development Bureau and the Innovation and Technology Commission have been tasked with the overall strategy formulation and implementation for developing innovation and technology in Hong Kong. We strive to create a better environment for developing innovation and technology, and facilitate the co-operation of the Government, industry, academic and research. Our main strategy is fourfold, namely to put in place world-class infrastructure for scientific and technological research, provide sufficient funding for the application of technological research achievements, facilitate technological co-operation with the Mainland and promote the culture of innovation and technology.

In a bid to let Members have a better understanding of our work, I will take Members through the SAR Government's work under this policy, particularly the new measures that we have launched after innovation and technology has become one of the six priority industries.

Quite many Members have pointed out that the Government should provide good infrastructure for scientific and technological research and reserve sufficient land for the development of innovation and technology. We very much echo this point. Thus, ongoing efforts will be made to enhance our world-class infrastructural facilities for scientific and technological research, such as the Hong Kong Science Park and industrial estates, as well as the Cyberport, so as to facilitate the business sector in conducting scientific and technological researches and attract more local and overseas technological enterprises to start their businesses in Hong Kong.

The Hong Kong Science Park is our flagship infrastructure in scientific and technological research. More than 340 technological companies have now established their companies in the Park, 40% of which are overseas and Mainland companies, filling up over 90% of the Park's occupancy. These companies have an annual turnover of \$100 billion, providing over 8 000 employment opportunities in the field of scientific and technological research.

In view of the success of Phase 1 and Phase 2 of the Science Park, the Hong Kong Science and Technology Parks Corporation (HKSTPC) announced last year the development project of Phase 3 of the Park costing \$4.9 billion in total. It is anticipated that the project will commission by phases in end 2013 to 2016. When the Phase 3 development is fully inaugurated, the total gross floor area of the research and development (R&D) offices and laboratories of the Park will be increased by half to 330 000 sq m, which will be able to attract the occupancy of an additional 150 companies and create 4 000 job opportunities.

At the same time, the HKSTPC also manages three industrial estates which provide the site for technology-intensive manufacturing and service industries to establish their factories. The industrial estates are now home to more than 160 enterprises specializing in traditional manufacturing businesses as well as state-of-the-art technologies. In the past year, 8 hectares of land in the industrial estates were allotted to the development of high-tier data centres, including multinational companies. This has played a part in consolidating Hong Kong's position as a data centre hub in the region. In order to better use the land in the industrial estates, the HKSTPC is finalizing on a revitalization measure, so as to encourage grantees which have not made good use of their land in the industrial estates to take up new projects or assign their land to other technological companies which are able to meet the prevailing admission criteria. The HKSTPC is also looking into the feasibility of developing the fourth industrial estate and its mode of operation.

Ms Emily LAU mentioned the Cyberport in her amendment. I must point out that the Cyberport is a successful public-private partnership project which has enabled the Government to develop a high-quality information and communication technology base within a relatively short period of time with low risk to bear in public finance. It is definitely not a property development project.

The Cyberport has pooled together companies and talents specialized in information and communication technology. It now has almost 60 tenants, almost half of which are non-local companies. To date, the Cyberport Digital Entertainment Incubation-cum-Training Centre has incubated 122 enterprises. These enterprises have won 57 local and 16 international awards related to this sector and developed almost 100 projects which have been granted intellectual property rights.

The SAR Government, in order to tie in with the future development of innovation and technology, has been actively finding new land. As Dr PAN Pey-chyou has pointed out, the Northeast New Territories New Development Areas and the Lok Ma Chau Loop are the sites for developing new and high technology, in which a 40-hectare site in the northern plan of the Ping Che/Ta Kwu Ling New Development Areas has been reserved for special industries, so as to meet our need in the long run. The planning of the Lok Ma Chau Loop will mainly be used for developing higher education, coupled with R&D of new and high technologies as well as cultural and creative industries. The two regions are still at their early planning stage. We will actively liaise with relevant departments to follow up the development and make the best of new development opportunities.

In order to promote the work of applied research and facilitate the transfer of technologies to the industry, the Government established five R&D Centres in 2006 to actively promote the productization of R&D projects. We are now able to see some initial results in the past year. I know that a number of Members will visit the Science Park tomorrow. I would like to take this opportunity to brief Members on the initial results in the past year.

- the Hong Kong Applied Science and Technology Research Institute (ASTRI) licensed its compact anti-shaking camera utility to an American company, generating at least US\$2 million in revenue. The company is now a tenant of the Science Park and has put the technology into production at its plant in Shenzhen. Moreover, the ASTRI has recently signed an agreement with a technology company from Chengdu to co-develop a new technology to be used in the communication system of the high speed rail in China.

- the Nano and Advanced Materials Institute Limited has also collaborated with a number of companies to take forward joint projects mainly focused on R&D of renewable energy. The industry has injected over \$50 million into the collaboration. This helps establish a R&D term on photovoltaic technology.

The five R&D Centres have just operated for five years. We are now reviewing the performance and cost-effectiveness of the Centres in the past five years and will brief Members by this year end on the details and set out the future development orientation.

Mr Ronny TONG wanted us to provide more details on various government financial support measures.

The SAR Government has been funding scientific and technological research projects through different channels. The Research Grants Council is tasked with the promotion of up-stream scientific and technological research. The Government established an \$18-billion research fund in 2009 to step up its support to fundamental university researches. On the other hand, the Commerce and Economic Development Bureau focuses on supporting applied R&D. "Industry lead, University participation, Government support" is the principle which we follow in granting financial supports.

Established in 1999, the Innovation and Technology Fund provides financial support for local universities, scientific and technological institutes and enterprises to take forward applied R&D. As of end of May 2011, the Fund has approved over 1 600 scientific and technological research projects, involving a total funding of over \$5.6 billion. The Fund does not set an annual ceiling on the funds approved as long as the projects are of quality.

A number of Members have mentioned that the total expenditure on R&D in Hong Kong in 2009 amounted to \$12.8 billion, representing 0.79% of our Gross Domestic Product. Despite the 2009 percentage has increased by more than 40% as compared 0.55% in 2001, it is still relatively low. Among the total R&D expenditure, almost 60% came from public organizations (\$500 million used by the Government and \$6.8 billion by universities and tertiary institutions) and only some 40% was used by the business sector (\$5.5 billion). This ratio is quite different from that of other developed countries where 70% of their R&D

expenditure is generally incurred by the business sector. With a view to improving this ratio, the Government will keep up its efforts in encouraging private enterprises to invest in R&D. As a matter of fact, the amount of funding granted by the Innovation and Technology Fund has been on the increase in the past three years, rising from \$590 million in 2008-2009 to \$720 million in 2009-2010 and further to \$750 million in 2010-2011. We understand that Dr PAN Pey-chyou's amendment seeks to urge the Government to increase its expenditure in this regard. Hence, we will grant funding in accordance with the actual situation and the market-led principle, so as to meet the needs of the R&D sector. In future, public organizations will only increase, rather than reduce, their investment in R&D.

In the past two years, we have launched a number of enhancement measures on the operation of the Innovation and Technology Fund, so as to dovetail with the needs of the sectors and the market trend. I have many examples at hand and I do not plan to read them all out, but in relation to Ms Starry LEE's proposal, I would like to say that starting from this year, the Innovation and Technology Fund will, in vetting applications, attach greater importance to projects with greater application and productization potential and those which dovetail with the government policy.

Recognizing that small and medium-sized scientific and technological research enterprises will be the pioneer in the productization of scientific and technological research achievements in future, we have commenced the second stage of the review, exploring how to enhance the capacity of the Small Entrepreneur Research Assistance Programme.

In order to encourage enterprises to invest more in R&D, the Government launched a \$200 million R&D Cash Rebate Scheme in April 2010, with a view to building stronger partnership between enterprises and local scientific and technological research institutions. Since its debut, the Scheme has approved 230-odd applications, amounting to over \$6.3 million of cash rebate.

A number of Members have urged the Government to introduce tax concessions and preferential land policy to encourage the business sector and overseas companies to invest in R&D projects in Hong Kong. It has been a consistent policy of the SAR Government to uphold a simple taxation system and low tax rates, so as to provide a level business playing field for different

professions and industries. Thus, the Government has to be very cautious in considering proposals which involve the provision of tax concessions or preferential financial treatments to individual industries or companies.

The SAR Government attaches great importance in promoting co-operation between Hong Kong and our country on the fronts of scientific and technological research and technology, and has maintained close liaison with the Central Government and different provincial and municipal governments. China is the second largest economy of the world and Hong Kong is an important part of China. It is thus paramount that we grasp the opportunities brought by the development of our country.

In the dedicated chapter on the Hong Kong and Macao SARs of the Twelfth Five-Year Plan announced this March, the Central Government specifically indicates its support to Hong Kong in developing innovation and technology. Hong Kong will further step up co-operation with the Mainland on scientific and technological research and technology, so as to tie in with the opportunities brought by the Twelfth Five-Year Plan.

We are actively discussing with the National Ministry of Science and Technology on a number collaborative projects, including:

- (a) recommending Hong Kong experts to be included in the National Expert Tank in Science;
- (b) encouraging more Hong Kong scientific and technological research institutes and professionals to participate in national projects on science and technology, such as the National Basic Research Programme (973 Programme) and the National Hi-Tech Research and Development Programme (863 Programme); and
- (c) kicking start the preparation of a new round of application as Partner State Key Laboratories.

The Mainland/Hong Kong Science and Technology Co-operation Committee co-chaired by the Vice Minister of the Ministry of Science and Technology and the Secretary for Commerce and Economic Development will convene its sixth meeting in Chengdu in the end of August 2011. Ongoing

efforts will be made in following up the technology aspect of the National Twelfth Five-Year Plan, so as to secure different technological co-operations between Hong Kong and the Mainland.

Public support and social recognition are indispensable if a favourable environment for the development of innovation and technology is to be successfully created. In a bid to fostering more talents in this field, the Government has been actively promoting the culture of innovation and technology to the public, particularly the younger generation, through organizing and supporting different publicity and promotional activities.

Since 2010, we have expanded the scale of the annual Innovation Festival which has been launched for years to the InnoTech Month, during which activities including a carnival, a roadshow, workshops, seminars and industry conferences will be held. The roadshow and carnival last year had attracted more than 130 000 participants. It is hoped that a stronger technology culture will be fostered among students and the public, so that they can personally experience the charm of innovation and technology.

This year, we have also newly established the Innovation and Technology Scholarship Award Scheme to give recognition to high-achieving science undergraduates from local universities. The awardees are granted scholarship to participate in an overseas attachment programme, together with internship opportunities and mentorship support. It is hoped that the Scheme will foster more leaders in scientific and technological research for the future.

Dr Samson TAM said that the Internet economy in Hong Kong is of considerable scale and is rapidly developing. This achievement not only shows the capability of local enterprises in exploring new ground in and making best use of technology to create business opportunities, but also reflects the contributions made possible by our open Internet environment and world-class communication infrastructural facilities.

To facilitate the continual development of the Internet economy, the Government will launch a series of new measures to keep up our competitive environment in Internet businesses. These measures include:

- (a) launching policies to facilitate the development of our data centres, so as to provide overseas institutes with one-stop support and assistance in sourcing the land they need;
- (b) promoting Hong Kong as the new hub for commerce, investment and innovation in the context of international information and communication technologies;
- (c) encouraging small and medium enterprises to make more extensive use of information and communication technology; and
- (d) making ongoing efforts in creating a favourable environment to facilitate the vigorous development of outstanding and professional IT teams, so as to meet the need of society.

Dr PAN Pey-chyou's amendment mentioned the patent system in Hong Kong, which is one of the strengths of Hong Kong in taking forward innovation and technology. The existing patent system in Hong Kong, which has been in use for over a decade, is acclaimed by many people in the industry, commending that it tailors to the need of the market and is user-friendly and low in cost. Yet, in recent years, some members of the industry have asked the authorities to take an in-depth review of the existing mechanism, including whether the "original grant patent system" should be introduced to Hong Kong, urging them to consider reforming the existing short-term patent system to prevent abuse.

The Government considers that it is now high time to take a comprehensive review of the patent system, so as to ensure that our patent system can keep abreast of the times and promote local creative industries. We plan to launch a public consultation document and establish an expert panel in the third quarter of this year. After collecting the views of different stakeholders, we will strive to announce the Government's proposal on the way forward in the first half of next year.

President, we hope Members would understand that the SAR Government attaches great importance to the development of innovation and technology. The Commerce and Economic Development Bureau has launched a series of policies and measures to support the development of the industry. The Government's active commitment and support is indubitable.

The development of technology, industry and economy is closely knitted. Designating one bureau to co-ordinate and implement the relevant policies and measures can centralize resources and more effectively generate synergy. This point has been raised by Ms Starry LEE, which is exactly the role which the Commerce and Economic Development Bureau has been playing. Moreover, the Steering Committee on Innovation and Technology, which is chaired by the Financial Secretary since the start of this year, is responsible for formulating policies which facilitate the development of innovation and technology and the productization of scientific and technological research achievements. The Financial Secretary just convened the first meeting last week, symbolizing the importance that the Government has attached to the development of innovation and technology. He has also actively responded to the aspiration of the industry in enhancing the status of the innovation and technology industry. Thus, the Government does not have a plan to establish an innovation and technology bureau at present.

The book *Innovation Policy and the Limits of Laissez-Faire* which Mrs Regina IP mentioned is written by Mr Douglas B FULLER. I support the need for Hong Kong to develop innovation and technology. The first chapter of the book is titled "Choosing to lose", and I think the policies which the Government has adopted are all "Choosing to win". We will actively take forward innovation and technology and work with the sector to jointly develop this industry.

President, the Government and Members both agree that innovation and technology are an important element which affects the future development of Hong Kong. We must tie in with the global development trend and vigorously take forward this industry. This task is as challenging and unpredictable as the task of scientific and technology research. We must consolidate and build up our strength in scientific and technology research and discover new opportunities. In particular, we must grasp the opportunity brought by the National Twelfth Five-Year and consistently work with different stakeholders, including the Legislative Council, the industry, academic, research as well as the public to unfold a new page for scientific and technology research in Hong Kong.

Thank you, President.

PRESIDENT (in Cantonese): Dr PAN Pey-chyou, you may now move the amendment to the motion.

DR PAN PEY-CHYOU (in Cantonese): President, I move that Dr Samson TAM's motion be amended.

Dr PAN Pey-chyou moved the following amendment: (Translation)

"To delete "in the face of the new challenges of" after "That" and substitute with "with the constant changes and rapid development of new technologies in recent years and the resultant new challenges faced by"; to add "local" after "create more"; to delete ";" after "employment opportunities" and substitute with ", with a view to achieving economic development with employment as the priority; (c) earmark land in planning for developing innovation and technology, including using existing industrial estates, the Hong Kong Science Park and the land in the border river-loop areas as bases for innovation and technological research as well as the development of the relevant industries; and at the same time, capitalize on the edge of Hong Kong-Mainland connection to establish a platform for innovation and technology industries in the two places, so as to achieve co-ordination and complementarity of edge;"; to delete the original "(c)" and substitute with "(d)"; to add "including specifying that the resources the Government puts into research and development must occupy a certain proportion in the Gross Domestic Product," after "sufficient resources,"; to delete "and" after "of local talents;" and substitute with "(e) expeditiously reform Hong Kong's existing patent application system, including considering the progressive introduction of an 'original grant patent system' and enhancing the existing short-term patent system, so as to perfect Hong Kong's systems of patented invention and innovative design; and at the same time, protect the rights and interests of patent applicants, so as to enable local creativity to receive appropriate protection; and"; and to delete the original "(d)" and substitute with "(f)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr PAN Pey-chyou to Dr Samson TAM's motion, be passed.

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, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Ms Emily LAU, as Dr PAN Pey-chyou's amendment has been passed, you may now move your revised amendment.

MS EMILY LAU (in Cantonese): President, I move that Dr Samson TAM's motion as amended by Dr PAN Pey-chyou be further amended by my revised amendment.

Ms Emily LAU moved the following further amendment to the motion as amended by Dr PAN Pey-chyou: (Translation)

"To add "; and (g) learn from the bitter experience of developing Cyberport, adopt a transparent, open, fair and impartial approach to attract investors to develop in Hong Kong, and refrain from packaging property development projects as innovation and technology schemes" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Ms Emily LAU's amendment to Dr Samson TAM's motion as amended by Dr PAN Pey-chyou be passed.

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)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him 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.

Functional Constituencies:

Mr CHEUNG Man-kwong, Ms Miriam LAU, Dr Joseph LEE, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Mr WONG Yung-kan and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Ms Starry LEE and Mr CHAN Hak-kan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 12 were present, nine were in favour of the amendment and three abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, 16 were in favour of the amendment and four abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Dr Samson TAM, you may now reply and you have three minutes 32 seconds.

DR SAMSON TAM (in Cantonese): President, here I would like to thank Members for speaking on the motion. Now it is already some time past 10 at night, but as shown by the head count, more than half of the Members have stayed, which makes me feel all the more grateful. *(Laughter)*

President, I propose this motion in the hope that the Government will take some actions. What actions? Earlier when I chatted with "Long Hair", he pointed out that we could hardly expect the Government to achieve anything.

However, I believe that as long as Members make concerted efforts to push ahead together, there will really be the chance to see the results achieved.

President, my motion today proposes that the Government should study the establishment of an innovation and technology bureau. Why do I say "study" instead of requesting the Government to handle the matter immediately? As we know, the current-term Government will surely not introduce any new policy. Neither will it undertake to introduce any new policy. Thus I have used the word "study" in the motion. It is mainly because I do not expect the current-term Government to introduce any new policy. Yet the current-term Government absolutely needs to conduct a study.

Hence, I hope Secretary Gregory SO can really implement the study and analyse the advantages and disadvantages of setting up an innovation and technology bureau. Regarding the advantages, I have already talked a lot earlier. As for the disadvantages, Mr Ronny TONG has just brought up problems like duplication of work. Of course, the depth of Mr TONG's enthusiasm and knowledge about technology and innovation is obvious to all of us.*(Laughter)* Nevertheless, we firmly believe that it will be mighty good if the various political parties can conduct more studies together. So I really hope that the Government will conduct the study.

If you take Mr TONG's words and consider that it is not good to have too many Policy Bureaux, you might as well take my suggestion of "replacing one bureau with another ". Perhaps Mr TONG would agree that replacing the Constitutional and Mainland Affairs Bureau with the innovation and technology bureau might actually be a good thing.*(Clapping)* The reason is that having a Policy Bureau which can formulate good policies is better than having a Policy Bureau which cannot put forward any good policy. Thus I hope the Government can really implement the study in the coming year.

Lastly, I also hope that the political parties because the study on the subject of innovation and technology is by no means simple. It needs participation of the political parties. Earlier in my speech I have pointed out that in the Kuomintang led by MA Ying-jeou in Taiwan, there is a spokesman for technology policy. I hope every political party which considers itself as having the strength and clout will also have a spokesman for technology policy in place so that I will have the chance to communicate with them. I also hope that all the

political parties can tell the Government firmly how they wish to develop technology and innovation in Hong Kong in the future, stating their political platform and stance. Here let me thank Members again for their participation in this discussion.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Samson TAM, as amended by Dr PAN Pey-chyou and Ms Emily LAU, be passed.

PRESIDENT (in Cantonese): 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, who are present. I declare the motion as amended passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 13 July 2011.

Adjourned accordingly at eighteen minutes past Ten o'clock.

Electoral Legislation (Miscellaneous Amendments) Bill 2011

Committee Stage

Amendments to be moved by the Secretary for Constitutional and
Mainland Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By adding “, 6A” after “Parts 2”.
New	<p>By adding immediately before clause 3—</p> <p>“2A. Section 36 amended (By-election to be held to fill vacancy in membership of Legislative Council)</p> <p>(1) Section 36(1)(d), before “on the”—</p> <p style="padding-left: 40px;">Add</p> <p style="padding-left: 40px;">“subject to sections 70A and 72(1A),”.</p> <p>(2) Section 36(1)(d)—</p> <p style="padding-left: 40px;">Repeal the full stop</p> <p style="padding-left: 40px;">Substitute a semicolon.</p> <p>(3) After section 36(1)(d)—</p> <p style="padding-left: 40px;">Add</p> <p style="padding-left: 40px;">“(e) if an appeal against a determination referred to in paragraph (d) is lodged to the Court of Final Appeal—</p> <p style="padding-left: 80px;">(i) on the Court of Final Appeal’s making a determination under section 70B that a person whose election is questioned was not duly elected and that no other person was duly elected instead; or</p>

- (ii) on the termination of the appeal proceedings in other circumstances.”.

2B. Section 48 amended (who is entitled to vote at an election)

- (1) Section 48(7)(a)—

Repeal

“or”.

- (2) After section 48(7)(a)—

Add

“(aa) preclude the Court of Final Appeal from making a determination under section 70B; or”.

New By adding—

“4A. Section 60A amended (Interpretation: Part VIA)

Section 60A(1), definition of *elected as a Member*, paragraph (a), after “or (2)”—

Add

“or 70B”.

5(3) In the proposed section 65(2), by deleting “7” (wherever appearing) and substituting “14”.

5(3) In the proposed section 65(2), by deleting “of the judgment of the Court to be appealed from” and substituting “on which the written judgment of the Court to be appealed from is handed down”.

8 In the proposed section 71, in the Chinese text, by deleting the

heading and substituting—

“71. 某人被判非妥為當選，不令其在位作為失效”。

8 In the proposed section 71, by deleting “of the determination” and substituting “on which the written judgment of the Court or the Court of Final Appeal, as the case may be, is handed down”.

9(1) In the proposed section 72(1)(a), by adding “and section 70A” after “subsection (1A)”.

9(1) In the proposed section 72(1)(b), by deleting “of the determination” and substituting “on which the written judgment of the Court is handed down”.

9(2) In the proposed section 72(1A), by deleting “subsection (3)” and substituting “subsections (3) and (5)”.

9 By adding—

“(2A) Section 72(2), before “the first-mentioned person”—

Add

“subject to subsection (1A) and section 70A,”.

(2B) Section 72(2)—

Repeal

“of the determination”

Substitute

“on which the written judgment of the Court is handed down”.”.

9(3) In the proposed section 72(3)(b), by deleting “of the determination of the Court of Final Appeal” and substituting “on which the written judgment of the Court of Final Appeal is handed down”.

9(3) In the proposed section 72(4), by deleting “of the determination of the Court of Final Appeal” and substituting “on which the written judgment of the Court of Final Appeal is handed down”.

9(3) By adding—

“(5) If the Court determines that a person who was declared under section 58 as duly elected as a Member was not duly elected as a Member and the person lodges an appeal under section 22(1)(c) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) against the determination, the person—

(a) ceases, if an application to withdraw an application for leave to appeal or an application to withdraw an appeal is made under rule 11 or 17 (as the case may be) of the Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg. A) in relation to the appeal and an order is made by the Court of Final Appeal granting the application, to be a Member on the date on which the order is made by the Court of Final Appeal; or

(b) ceases, if the appeal proceedings are terminated in other circumstances, to be a Member on the date on which the appeal proceedings are terminated,

and the determination of the Court against which the appeal is lodged stands from that date.”.

New By adding immediately before clause 10—

“9A. Section 26 amended (When elected member’s office becomes vacant)

- (1) Section 26(d), before “the Court”—

Add

“subject to sections 58A and 60(1A),”.

- (2) Section 26(d)—

Repeal the full stop**Substitute**

“; or”.

- (3) After section 26(d)—

Add

“(e) (if an appeal against a determination referred to in paragraph (d) is lodged to the Court of Final Appeal)—

- (i) the Court of Final Appeal determines under section 58B that the member was not duly elected and that no other person was duly elected instead; or
- (ii) the appeal proceedings are terminated in other circumstances.”.

9B. Section 29 amended (Who is entitled to vote at an election)

- (1) Section 29(7)(a)—

Repeal

“or”.

- (2) After section 29(7)(a)—

Add

“(aa) preclude the Court of Final Appeal from making a determination under section 58B; or”.

12(3) In the proposed section 53(2), by deleting “7” (wherever

appearing) and substituting “14”.

- 12(3) In the proposed section 53(2), by deleting “of the judgment of the Court to be appealed from” and substituting “on which the written judgment of the Court to be appealed from is handed down”.
- 15 In the proposed section 59, in the Chinese text, by deleting the heading and substituting—
- “59. 某人被判非妥為當選，不令其在位作為失效”。**
- 15 In the proposed section 59, by deleting “of the determination” and substituting “on which the written judgment of the Court or the Court of Final Appeal, as the case may be, is handed down”.
- 16(1) In the proposed section 60(1)(a), by adding “and section 58A” after “subsection (1A)”.
- 16(1) In the proposed section 60(1)(b), by deleting “of the determination” and substituting “on which the written judgment of the Court is handed down”.
- 16(2) In the proposed section 60(1A), by deleting “subsection (3)” and substituting “subsections (3) and (5)”.

- 16 By adding—
- “(2A) Section 60(2), before “the first-mentioned person”—
Add
“subject to subsection (1A) and section 58A,”.
- (2B) Section 60(2)—
Repeal
“of the determination”
Substitute
“on which the written judgment of the Court is handed down”.”.
- 16(3) In the proposed section 60(3)(b), by deleting “of the determination of the Court of Final Appeal” and substituting “on which the written judgment of the Court of Final Appeal is handed down”.
- 16(3) In the proposed section 60(4), by deleting “of the determination of the Court of Final Appeal” and substituting “on which the written judgment of the Court of Final Appeal is handed down”.
- 16(3) By adding—
- “(5) If the Court determines that a person who was declared under section 46 as duly elected as an elected member was not duly elected as an elected member and the person lodges an appeal under section 22(1)(c) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) against the determination, the person—
- (a) ceases, if an application to withdraw an application for leave to appeal or an application to withdraw an appeal is made under rule 11 or 17 (as the case may be) of the

Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg. A) in relation to the appeal and an order is made by the Court of Final Appeal granting the application, to be an elected member on the date on which the order is made by the Court of Final Appeal; or

- (b) ceases, if the appeal proceedings are terminated in other circumstances, to be an elected member on the date on which the appeal proceedings are terminated,

and the determination of the Court against which the appeal is lodged stands from that date.”.

New By adding immediately after clause 16—

“16A. Section 60A amended (Interpretation: Part VA)

Section 60A(1), definition of *elected as an elected member*, paragraph (a), after “or (2)”—

Add

“or 58B”.

New By adding immediately before clause 17—

“16B. Section 13 amended (Who is entitled to vote at an election)

- (1) Section 13(3)(a)—

Repeal

“or”.

- (2) After section 13(3)(a)—

Add

“(aa) preclude the Court of Final Appeal from making a determination under section 45B; or”.

19(3) In the proposed section 43(2), by deleting “7” (wherever appearing) and substituting “14”.

- 19(3) In the proposed section 43(2), by deleting “of the judgment of the Court to be appealed from” and substituting “on which the written judgment of the Court to be appealed from is handed down”.
- 22 In the proposed section 49, in the Chinese text, by deleting the heading and substituting—
“49. 某人被判非妥為當選，不令其在位作為失效”.
- 22 In the proposed section 49, by deleting “of the determination” and substituting “on which the written judgment of the Court or the Court of Final Appeal, as the case may be, is handed down”.
- 23(1) In the proposed section 50(1)(a), by adding “and section 45A” after “subsection (1A)”.
- 23(1) In the proposed section 50(1)(b), by deleting “of the determination” and substituting “on which the written judgment of the Court is handed down”.
- 23(2) In the proposed section 50(1A), by deleting “subsection (3)” and substituting “subsections (3) and (5)”.

- 23 By adding—
- “(2A) Section 50(2), before “the first-mentioned person”—
Add
“subject to subsection (1A) and section 45A,”.
- (2B) Section 50(2)—
Repeal
“of the determination”
Substitute
“on which the written judgment of the Court is handed down”.”.
- 23(3) In the proposed section 50(3)(b), by deleting “of the determination of the Court of Final Appeal” and substituting “on which the written judgment of the Court of Final Appeal is handed down”.
- 23(3) In the proposed section 50(4), by deleting “of the determination of the Court of Final Appeal” and substituting “on which the written judgment of the Court of Final Appeal is handed down”.
- 23(3) By adding—
- “(5) If the Court determines that a person who was declared under section 36 as duly elected as a Village Representative was not duly elected as a Village Representative and the person lodges an appeal under section 22(1)(c) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) against the determination, the person—
- (a) ceases, if an application to withdraw an application for leave to appeal or an application to withdraw an appeal is made under rule 11 or 17 (as the case may be) of the Hong Kong Court of Final Appeal Rules (Cap. 484 sub. leg. A) in relation to the appeal

and an order is made by the Court of Final Appeal granting the application, to be a Village Representative on the date on which the order is made by the Court of Final Appeal; or

- (b) ceases, if the appeal proceedings are terminated in other circumstances, to be a Village Representative on the date on which the appeal proceedings are terminated,

and the determination of the Court against which the appeal is lodged stands from that date.”.

27 In the proposed section 43(4A), by deleting everything after “information” and substituting—

“on—

- (a) any number of list of candidates which is also validly nominated for that geographical constituency;
- (b) one single list of candidates which is validly nominated for the District Council (second) functional constituency; or
- (c) one single list of candidates which is validly nominated for the District Council (second) functional constituency and any number of list of candidates which is also validly nominated for that geographical constituency.”.

27 In the proposed section 43(4B), by deleting “one single list of candidates which is validly nominated for any” and substituting “any number of list of candidates which is validly nominated for one single”.

27 In the proposed section 43(4D), in the Chinese text, by deleting “如此”.

New By adding—

“Part 6A

**Amendments Relating to Minor Errors etc. in Election
Return**

Division 1

Enactments Amended

37A. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2

**Amendments to Elections (Corrupt and Illegal Conduct)
Ordinance (Cap. 554)**

**37B. Section 20 amended (Corrupt conduct to lodge
false or misleading election return)**

Section 20—

Repeal

everything after “section 37”

Substitute

“or a copy of an election return lodged under section 37A, makes a statement that the candidate knows or ought to know is materially false or misleading whether or not the statement is the subject of a correction effected under section 37A.”.

37C. Section 37A added

After section 37—

Add

**“37A. Relief for minor errors etc. in election
return**

(1) Subject to subsection (2), this section applies to—

- (a) any error or false statement in an election return lodged by a candidate the nature of which is a failure to set out in the election return any election expense of the candidate at the election concerned or any election donation received by or on behalf of the candidate in connection with the election—
 - (i) that is required under section 37 to be set out in the election return; and
 - (ii) that does not exceed the limit prescribed in the Schedule for the election; and
- (b) any error or false statement in an election return lodged by a candidate—
 - (i) the nature of which is incorrectness in the amount of any election expense of the candidate at the election concerned or any election donation received by or on behalf of the candidate in connection with the election; and
 - (ii) the correction of which requires an adjustment not exceeding the limit prescribed in the Schedule for the election in that amount.

(2) If—

- (a) there are 2 or more errors or false statements in an election return; and
- (b) the aggregate value of those errors or false statements exceeds the limit prescribed in the Schedule for the election concerned,

this section does not apply to the errors or false statements.

-
- (3) For the purposes of subsection (2), the value of an error or false statement is—
- (a) if the nature of the error or false statement is a failure to set out an election expense or election donation, the amount of the election expense or election donation;
 - (b) if the nature of the error or false statement is incorrectness in the amount of an election expense or election donation, the extent, in monetary terms, of the adjustment required to correct the error or false statement.
- (4) Despite section 37, if this section applies to any error or false statement in an election return lodged by a candidate, the candidate may lodge, subject to subsections (5) and (6), with the appropriate authority a copy of the election return which is marked with the necessary revision to have the error or false statement corrected.
- (5) A candidate may not lodge a copy of an election return in relation to an election under subsection (4) if the aggregate amount of election expenses incurred at or in connection with the election by or on behalf of the candidate exceeds the maximum amount of election expenses prescribed for a candidate by regulations in force under section 45.
- (6) A copy of an election return lodged under subsection (4) by a candidate is of no effect unless—
- (a) it is lodged within 30 days after the date on which the candidate receives a notice from the appropriate authority relating to the error or false statement in the election return;
 - (b) if the nature of the error or false statement is a failure to set out an election expense or election donation in the election return, it is accompanied by—

- (i) (in the case of an election expense) an invoice and a receipt; or
 - (ii) (in the case of an election donation) a copy of a receipt and, if applicable, an explanation,

required under section 37(2)(b) had the election expense or election donation been set out in the election return; and
 - (c) it is accompanied by a declaration by the candidate in a form provided or specified by the appropriate authority verifying the contents of the copy of the election return.
- (7) For the purposes of subsection (6), an invoice and a receipt for an election expense may be included in the same document.
- (8) On the receipt under subsection (4) by an appropriate authority of a copy of an election return which is marked with any revision described in that subsection—
 - (a) the revision is deemed, except for the purposes of section 20, to have been made in the election return before the election return was lodged; and
 - (b) an invoice, a receipt, a copy of a receipt or an explanation (if any) accompanying the copy is deemed, except for the purposes of section 20, to have accompanied the election return when the election return was lodged.
- (9) A group of candidates or a candidate who is not one of a group of candidates may only lodge one copy of an election return under subsection (4) in respect of an election.
- (10) A copy of an election return may not be withdrawn or amended after it has been lodged under subsection (4).

- (11) The Chief Executive in Council may by order amend the Schedule.
- (12) In this section, a reference to an error or false statement in an election return includes—
 - (a) an error or false statement in any document accompanying the election return; or
 - (b) a failure to send any document required by section 37(2)(b) in relation to the election return.”.

37D. Section 41 amended (Appropriate authority to keep election returns)

- (1) Section 41(1)—

Repeal

everything after “of the”

Substitute

“authority—

- (a) all election returns lodged with the authority under section 37; and
- (b) all copies of election returns lodged with the authority under section 37A.”.

- (2) Section 41(2)—

Repeal

everything after “copies of the”

Substitute

“documents kept under subsection (1) are made available for inspection by any person who, during the authority’s business hours, asks to inspect any of the documents.”.

- (3) Section 41(3)—

Repeal

“an election return or part of a return kept under this section”

Substitute

“a document or part of a document kept under subsection (1)”.

- (4) Section 41(5)—

Repeal

“election returns lodged with the authority to be destroyed, but if, by the end of that period, a candidate who has lodged an election return”

Substitute

“documents kept by the authority under subsection (1) to be destroyed, but if, during that period, a candidate who has lodged any of the documents”.

- (5) Section 41(6)—

Repeal

“an election return lodged with the appropriate authority, is the period beginning with the time when the return”

Substitute

“a document lodged with the appropriate authority, is the period beginning with the time when the document”.

37E. Schedule added

After section 49—

Add

“Schedule [s. 37A]

**Limit Prescribed for Election Concerned for
Purposes of Section 37A**

Item	Election	Limit
1.	An election to elect the Chief Executive	\$5,000
2.	An election to elect a Member or Members of the Legislative Council for the District Council (second) functional constituency within the meaning of the	\$5,000

	Legislative Council Ordinance (Cap. 542)	
3.	An election to elect a Member or Members of the Legislative Council for any geographical constituency within the meaning of the Legislative Council Ordinance (Cap. 542)	\$3,000
4.	An election to elect a Member or Members of the Legislative Council for any functional constituency within the meaning of the Legislative Council Ordinance (Cap. 542) other than the District Council (second) functional constituency	\$500
5.	An election to elect a member or members of the Election Committee	\$500
6.	An election to elect a member or members of a District Council	\$500
7.	An election to elect a member or members of the Heung Yee Kuk	\$200
8.	An election to elect the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee	\$200
9.	An election to elect a Village Representative	\$200”.

Division 3

Amendment to Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B)

37F. Schedule 1 amended (Provisions Excluded from application of section 5 of Ordinance)

Schedule 1, item 64, column 3—

Repeal

“Section 37(1) and (2)”

Substitute

“Sections 37(1) and (2) and 37A(4) and

(6)”. ”.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Education to Dr Margaret NG's supplementary question to Question 1

As regards a proposed school building project in Discovery Bay, the Education Bureau has all along been closely monitoring the latest development of the demand and supply of public sector school places and reviewing the arrangements as well as the programme of school building projects in order to meet with the actual demand and the trend of population development.

The proposed school building project in Area N4a, Discovery Bay involves the construction and the setting up of a new through-train primary-cum-secondary school. The Education Bureau has reviewed the project from time to time in the light of the latest projections of the demand and supply of public sector primary and secondary school places, as well as the actual situation of the demand and supply of existing school places. Moreover, we have also maintained contacts with the school sponsoring body which has been allocated with that proposed school premises, namely The Catholic Diocese of Hong Kong, regarding the position of the project.

Taking into account the latest demand and supply of school places, we tentatively plan to commence the technical feasibility study for the project in early 2012 with a view to completing the relevant construction works in 2016. The above programme is premised on the circumstances that the updated projections of demand and supply of school places, as well as the enrolment situation of existing schools in the district, remain to justify the building of a new primary-cum-secondary school by 2016. We will continue to close monitor the situation in order to meet with the latest population development in the Islands District.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Transport and Housing to Ms Miriam LAU's supplementary question to Question 4**

As regards information about the economic loss to Hong Kong if the third runway were not built in time, the economic impact analysis conducted by the Airport Authority Hong Kong (AAHK)'s consultant has not directly conducted analysis on the economic loss of not building the third runway, as there was insufficient information on how resources would be alternatively invested in other parts of the economy which would also generate economic contribution to Hong Kong.

On the other hand, the AAHK's consultant has estimated that the development of a three-runway system, that is, Option 2 under the Hong Kong International Airport Master Plan 2030 (Master Plan 2030), would bring about an Economic Net Present Value (ENPV) of \$912 billion for the period from 2012 to 2061. Even if we put aside a do-nothing scenario, the same analysis on the basis of an expansion of the existing two-runway system as envisaged in Option 1 under the Master Plan 2030 points to an ENPV of \$432 billion for the same period. In other words, the difference between the two options, which is also the economic opportunities foregone, would be \$480 billion in terms of the ENPV. The \$480 billion figure includes foregone benefits in the aviation sector, non-aviation businesses at the Hong Kong International Airport (HKIA) and the ripple effects of these businesses if Option 1 is chosen instead of Option 2.

According to the Master Plan 2030 prepared by the AAHK, the existing two runways of the HKIA would reach capacity in 2020 (base case). By then, our airport would no longer be able to accommodate additional flight movements. The foregone economic benefits due to constrained passenger and cargo throughput would in turn translate into lower economic contribution of the airport and its associated industries, and the ripple effect would ultimately affect the GDP growth in Hong Kong.

Members should also note that apart from the \$480 billion figure, the constrained capacity may also lead to less connectivity with cities in the Mainland or elsewhere, to a loss in Hong Kong's competitiveness in tourism or air freight, to a decrease in Hong Kong's attractiveness as a financial and business centre, to a

WRITTEN ANSWER — *Continued*

decrease in Hong Kong's competitiveness in trade fairs and exhibitions, or more generally to an increase in delays and costs imposed on Hong Kong travellers or businesses.