

立法會
Legislative Council

LC Paper No. CB(3) 625/10-11

**Paper for the House Committee meeting
on 1 April 2011**

**Questions scheduled for the
Legislative Council meeting on 6 April 2011**

Questions by:

- | | | |
|------|-------------------------------|-----------------|
| (1) | Dr Hon Samson TAM Wai-ho | (Written reply) |
| (2) | Dr Hon Margaret NG | (Written reply) |
| (3) | Dr Hon Joseph LEE Kok-long | (Written reply) |
| (4) | Hon CHIM Pui-chung | (Written reply) |
| (5) | Hon LEE Wing-tat | (Written reply) |
| (6) | Hon CHEUNG Hok-ming | (Written reply) |
| (7) | Hon Audrey EU Yuet-mee | (Written reply) |
| (8) | Hon IP Wai-ming | (Written reply) |
| (9) | Hon WONG Sing-chi | (Written reply) |
| (10) | Hon Emily LAU Wai-hing | (Written reply) |
| (11) | Hon Albert CHAN Wai-yip | (Written reply) |
| (12) | Hon LEUNG Kwok-hung | (Written reply) |
| (13) | Hon KAM Nai-wai | (Written reply) |
| (14) | Dr Hon LAM Tai-fai | (Written reply) |
| (15) | Hon Frederick FUNG Kin-kee | (Written reply) |
| (16) | Hon Paul TSE Wai-chun | (Written reply) |
| (17) | Hon Abraham SHEK Lai-him | (Written reply) |
| (18) | Hon Mrs Regina IP LAU Suk-yee | (Written reply) |
| (19) | Hon CHEUNG Kwok-che | (Written reply) |
| (20) | Hon LEE Wing-tat | (Written reply) |

註 :

NOTE :

議員將採用這種語言提出質詢

Member will ask the question in this language

部分機構及政府部門的資訊科技管理

(1) 譚偉豪議員 (書面答覆)

關於電訊管理局、公司註冊處、香港郵政及土地註冊處內負責資訊科技管理的部門(“資訊科技組”)的情況，政府可否告知本會，是否知悉：

- (一) 上述各機構／政府部門的資訊科技組於2011-2012年度的預算開支分別為多少，與上年度的實際開支如何比較，以及出現開支變化的原因為何；
- (二) 第(一)項的開支預算主要涉及哪些具體的工作項目；當中哪些為持續進行項目和新增項目；每個項目涉及的人手、費用，以及推行時間表為何；各項目涉及的人手中，公務員、非公務員合約員工及外判員工各佔多少；
- (三) 上述機構／政府部門有否預留款項在2011-2012年度推動電子化公民參與措施，以及公共資訊開放措施；若有，具體內容(包括項目名稱、細節、涉及的人手、費用和推行時間表為何)；若沒有，原因為何，以及日後會否考慮推出該等措施；
- (四) 上述機構／政府部門的資訊科技組現時的常額編制、現有人員數目及空缺職位數目分別為何；預計在2012-2013年度會否增加人手；若會，預計增加多少個職位，涉及哪些職級，是否常額職位，以及會否以公務員條款聘用有關人員；若不會增加人手，原因為何；及
- (五) 上述機構／政府部門有否全面檢討資

訊科技組的成效；若有，檢討結果為何，當中涉及哪些具體改善措施；若沒有檢討，原因為何，以及日後會否進行檢討？

Management of information technology in some
organizations/government departments

(1) Dr Hon Samson TAM Wai-ho (Written Reply)

Regarding the units responsible for the management of information technology (“IT units”) in the Office of the Telecommunications Authority, the Companies Registry, Hongkong Post and the Land Registry, will the Government inform this Council if it knows:

- (a) the respective estimated expenditures of the IT units in the aforesaid organizations/government departments in 2011-2012; how such expenditures compare with the actual expenditure in the preceding year; and the reasons for the change in such expenditures;
- (b) what specific work initiatives are involved in the estimated expenditures in (a); and among them, those which are ongoing and new initiatives; as well as the manpower, cost and implementation timetable involved in each of the new initiatives; and among the manpower involved, the respective numbers of civil servants, non-civil service contract staff and outsourced staff;
- (c) whether the aforesaid organizations/government departments have reserved funds for promoting computerized civic participation and access to public information in 2011-2012; if they have, of the specific details, including the titles and particulars of the initiatives, the manpower and cost involved as well as the implementation timetables; if not, the reasons for that and whether such organizations/government departments will consider introducing these initiatives in the future;
- (d) the respective permanent establishment and strength of, and the number of vacancies in, the

IT units of the aforesaid organizations/ government departments at present; whether the manpower concerned is expected to increase in 2012-2013; if so, the expected number of additional posts to be created, the ranks involved, whether they are permanent posts, and whether the staff concerned will be appointed on civil service terms; if the manpower concerned will not be increased, the reasons for that; and

- (e) whether the aforesaid organizations/ government departments have carried out any comprehensive review of the effectiveness of their IT units; if they have, the outcome of the reviews and the specific improvement measures involved; if not, the reasons for that and whether they will conduct such reviews in the future?

《個人資料(私隱)條例》的執法工作

(2) 吳靄儀議員 (書面答覆)

個人資料私隱專員公署(“公署”)較早前發表的2010年工作回顧顯示，公署在2010年收到1 179宗涉嫌違反《個人資料(私隱)條例》(第486章)的投訴，但只把其中的12宗轉介予警方考慮作出檢控。該等獲轉介的個案當中，警方至今就只有1宗提出檢控(違例者亦被法庭定罪)、不擬就7宗提出檢控，以及仍在跟進其餘的4宗。有評論指出，上述的檢控及定罪數字偏低可能會令社會產生“有法無用”的印象。就此，政府可否告知本會：

- (一) 是否知悉公署對絕大多數的投訴個案不作出轉介的原因，以及警方對大部分的獲轉介個案不提出檢控的原因為何；及
- (二) 當局會否改善有關《個人資料(私隱)條例》的檢控政策，以期更有力地處理違反該條例的個案；如會，詳情為何？

Enforcement of the Personal Data (Privacy) Ordinance

(2) Dr Hon Margaret NG (Written Reply)

According to the Year End Report 2010 released earlier by the Office of the Privacy Commissioner for Personal Data (“PCPD”), 1 179 complaint cases related to suspected contravention of the Personal Data (Privacy) Ordinance (Cap. 486) (“the Ordinance”) were received by PCPD in 2010, but only 12 of these cases were referred to the Police for consideration of prosecution. Among the cases referred to the Police, prosecution was instituted for only one case so far (the offender was convicted by the court), prosecution would not be instituted for seven cases, and the remaining four are still being followed up. There have been comments that the aforesaid rather low prosecution and conviction figures may give an impression to the public that “the law is laid aside and unused”. In this connection, will the Government inform this Council:

- (a) whether it knows why PCPD did not make any referral to the Police for a great majority of these complaint cases, and why prosecution has not been instituted by the Police in a majority of the cases referred to them; and
- (b) whether the authorities will refine the prosecution policy relating to the Ordinance with a view to enhancing enforcement against contravention of the Ordinance; if they will, of the details?

關愛基金

(3) 李國麟議員 (書面答覆)

行政長官於2010-2011年施政報告中宣布成立關愛基金(“基金”),目標是由政府與商界各出資50億元,為基層市民提供綜合社會保障援助計劃不能提供的多方面支援。據報道,較早前有一些慈善團體反映,政府宣布成立該基金後,有部分財團明確表示因為要捐款給基金,可能會減少對該些團體的捐款。另一方面,財政司司長最近建議注資基金(有報道指當局預留逾10億元作此用途),以幫助未能受惠於他最近建議向每名香港永久性居民發放6,000元的措施但有經濟需要的人士。有社會人士擔心,此舉有可能進一步減低財團向慈善團體捐款的意欲,使不少以服務有需要的非永久性居民為主的慈善團體在募捐時更感困難。就此,政府可否告知本會:

- (一) 是否知悉本港各主要的慈善團體在過去3年籌得的捐款數字;該等慈善團體在政府宣布成立基金後收到的捐款有否較之前減少;若有,詳情為何;若否,原因為何;
- (二) 除了作為關愛基金督導委員會主席的政務司司長曾表示會去信商業機構,呼籲他們對基金的捐款是作為他們對慈善事業的支援的額外捐助外,當局有何方法鼓勵商業機構不要因捐款給基金而削減對其他慈善團體的捐款;
- (三) 當局有否設立溝通渠道,讓慈善團體可向當局反映,在政府宣布成立基金後在募捐及營運上遇到的困難;若有,詳情

為何；若否，原因為何；鑒於慈善團體的募捐情況直接影響他們所提供的社會服務，當局會否向嚴重受影響的慈善團體提供相應的協助或支援；若會，詳情為何；若否，原因為何；及

- (四) 當局擬向基金注資10億元，以幫助有需要的人士，會否偏離基金最初的成立目的；若否，原因為何？

Community Care Fund

(3) Dr Hon Joseph LEE Kok-long (Written Reply)

The Chief Executive announced in his 2010-2011 Policy Address the setting up of a Community Care Fund (“the Fund”), to which the Government and the business sector would each contribute \$5 billion, to support people in need in areas not covered by the Comprehensive Social Security Assistance Scheme. It has been reported that a number of charity organizations reflected earlier that after the Government’s announcement of the establishment of the Fund, some consortia had explicitly indicated that they might reduce their donations to these organizations as they had to contribute to the Fund. On the other hand, the Financial Secretary has recently proposed to inject additional money into the Fund (it has been reported that the amount earmarked for such purpose will be over \$1 billion) to help those who are unable to benefit from his proposed disbursement of \$6,000 to each permanent resident of Hong Kong but in need of financial assistance. Some members of the public worry that such a move may further reduce the consortia’s desire to make donations to charity organizations, making fundraising more difficult for those charity organizations which mainly provide services to non-permanent residents in need. In this connection, will the Government inform this Council:

- (a) whether it knows the figures on the donations raised by the major charity organizations in Hong Kong in the past three years; whether the donations received by these organizations have dwindled after the Government’s announcement of the establishment of the Fund; if so, of the details; if not, the reasons for that;
- (b) apart from the undertaking of the Chief Secretary for Administration that he would, as Chairman of the Steering Committee on the

Community Care Fund, write to business corporations appealing to them that their contributions to the Fund should be made on top of their regular support for charities, how the authorities will encourage business corporations not to cut their donations to charity organizations for the reason that they have contributed to the Fund;

- (c) whether the authorities have established communication channels for charity organizations to relay to them their difficulties in fundraising and operations after the Government's announcement of the establishment of the Fund; if so, of the details; if not, the reasons for that; given that the fundraising performance of charity organizations have direct impact on the community services they provide, whether the authorities will offer relevant assistance or support to the seriously affected charity organizations; if they will, of the details; if not, the reasons for that; and
- (d) given that the authorities have proposed to inject \$1 billion additional money into the Fund to help those in need, whether such a move will deviate from the original purpose of setting up the Fund; if not, of the reasons for that?

收費政策

(4) 詹培忠議員 (書面答覆)

現時本港3條過海行車隧道(“過海隧道”)收取不同的收費，但法院除就法律程序收取指明費用外，原則上不就其主要服務向市民收取費用。就此，政府可否告知本會：

- (一) 為甚麼有上述兩種不同的收費政策；及
- (二) 有否考慮回購所有過海隧道的專營權，並開放該等隧道供市民免費使用；若否，原因及所涉原則為何？

Policy on fees collection

(4) Hon CHIM Pui-chung (Written Reply)

At present, the three road harbour crossings (“RHCs”) in Hong Kong charge tolls of different levels, while the courts, in principle, do not charge the public for their major services apart from collecting specified fees in respect of legal proceedings. In this connection, will the Government inform this Council:

- (a) of the reasons for the aforesaid two different policies on fees collection; and
- (b) whether it has considered buying out the franchises of all RHCs and opening them for public use free of charge; if not, of the reasons for that and the principle involved?

在港鐵車站及列車內發生的風化案

(5) 李永達議員 (書面答覆)

運輸及房屋局局長於2011年1月19日回覆本會議員的質詢時表示，政府及香港鐵路有限公司(“港鐵公司”)為防止在港鐵車站範圍內發生風化案而實施若干措施。就此，政府可否告知本會：

- (一) 負責港鐵網絡保安事宜的警務處鐵路警區及港鐵公司職員的人數分別為何，並按鐵路路線和車站名稱及工作時段列出分項數字；鑒於在過去5年，發生在港鐵範圍內的非禮案件數字有上升趨勢，是否知悉港鐵公司會否考慮加派人手，以維持鐵路網絡的治安；若會，詳情及具體時間表為何；若否，原因為何；
- (二) 過去5年，關於為加強在有關的罪案黑點的巡邏，以及鼓勵遇到事故的市民挺身而出報警或通知車站職員等事宜而採取的預防及打擊措施，當局每年投放的資源、人手及金額分別為何；有否檢討該等措施的成效，以及有否研究更有效的措施；
- (三) 2006年至2010年10月，在港鐵範圍內發生的非禮及“偷拍裙底”案件，按鐵路路線、車站名稱，以及事發月份和鐘點列出分項數字；
- (四) 過去5年，鐵路警區與港鐵公司定期舉行的反罪惡會議的詳情(包括會議成員、人數、時間及議程)為何，以及反罪惡會議就檢討和制訂措施以打擊於港

鐵範圍內發生的罪行的進度分別為何
(按年列出)；

- (五) 是否知悉，現時是否每一個港鐵車站及車廂內都有張貼警方與港鐵公司合作製作“猥褻侵犯勿啞忍，挺身舉報非禮案”的海報；若否，原因為何，以及政府或港鐵公司會否考慮於每一個港鐵車站(例如廣告燈廂)及車廂內的顯眼位置張貼該等海報或其他宣傳品，以鼓勵風化案受害人或目擊者挺身舉報罪案；若會，詳情及具體時間表為何；若否，原因為何；及
- (六) 政府或港鐵公司會否考慮成立一支專責處理在港鐵範圍內發生的風化案的隊伍；若會，詳情及具體時間表為何；若否，原因為何？

Sex crimes occurring in MTR stations and trains

(5) Hon LEE Wing-tat (Written Reply)

In her reply to a question raised by a Member of this Council on 19 January 2011, the Secretary for Transport and Housing said that the Government and the MTR Corporation Limited (“MTRCL”) had implemented certain measures to prevent sex crimes from occurring within the area of MTR stations. In this connection, will the Government inform this Council:

- (a) of the respective numbers of staff of the Railway District of the Police and of MTRCL who are responsible for security in the MTR network, with a breakdown by rail line and name of station as well as the working hours of the staff; given that there was an upward trend of the number of indecent assault cases which occurred in the railway premises over the past five years, whether it knows if MTRCL will consider providing more manpower to maintain law and order in railway network; if it will, of the details and the specific timetable; if not, the reasons for that;
- (b) regarding the preventive and enforcement measures taken to strengthen patrol at blackspots and encourage passengers not to remain silent but report crimes to the Police or station staff should they encounter such incidents, of the resources, manpower and amount of money allocated by the authorities in this regard in each of the past five years; whether they had reviewed the effectiveness of such measures and explored measures which are more effective;
- (c) of a breakdown of the number of indecent assault and “under skirt photo-taking” cases that occurred in the railway premises from 2006 to October 2010 by rail line, name of station, as

well as the month in which and the hour at which such incidents occurred;

- (d) of the details of the joint anti-crime campaigns held regularly by the Railway District and MTRCL (including members of the campaigns, number of such members, time and agenda) over the past five years, as well as the respective progress of the joint anti-crime campaigns in reviewing and formulating measures to combat offences in the railway premises in each of the past five years;
- (e) whether it knows if the posters entitled “Don’t be a Silent Victim, Report Indecent Assault”, which were produced by the Police in collaboration with MTRCL, are at present displayed in each MTR station and train compartment; if not, of the reasons for that, and whether the Government or MTRCL will consider displaying such posters or other publicity materials at prominent locations in each MTR station (e.g. advertising boxes) and train compartment to encourage victims or witnesses of sex crimes not to remain silent but report crimes; if it will, of the details and the specific timetable; if not, the reasons for that; and
- (f) whether the Government or MTRCL will consider setting up a team dedicated to handling the sex crimes which occurred in railway premises; if it will, of the details and the specific timetable; if not, the reasons for that?

向法定機構提供政府資助金事宜

(6) 張學明議員 (書面答覆)

關於政府向法定機構提供資助金事宜，政府可否告知本會：

- (一) 現時有多少間法定機構每年接受政府提供資助金；請列出有關法定機構的名稱，以及個別法定機構在過去3年每年所獲的資助金金額；及
- (二) 是否設有既定機制訂定及調整上述法定機構每年可獲的資助金金額；如有，詳情為何；如沒有，當局按甚麼準則訂定法定機構每年可獲的資助金金額及如何作出調整？

Government subventions provided to statutory bodies

(6) Hon CHEUNG Hok-ming (Written Reply)

Regarding the provision of government subventions to statutory bodies, will the Government inform this Council:

- (a) of the number of statutory bodies receiving annual subventions from the Government at present, together with a list of the names of the statutory bodies concerned and the respective amounts of subventions received by individual statutory bodies in each of the past three years; and
- (b) whether an established mechanism is in place for determining and adjusting the amount of annual subventions that may be received by these statutory bodies; if so, of the details; if not, the criteria based on which the authorities determine the amount of annual subventions for statutory bodies and how the amounts are adjusted?

符合運輸署考慮改善或減少巴士服務的準則
的巴士路線

(7) 余若薇議員 (書面答覆)

政府可否告知本會，目前符合運輸署的《巴士路線發展計劃中有關改善及減少服務的指引》中，運輸署考慮：

- (一) 縮減班次的準則(即在繁忙時段最繁忙半小時內的平均載客率低於85%，或在非繁忙時段內的平均載客率低於30%)的專營巴士路線的編號；
- (二) 增加班次的準則(即在繁忙時段最繁忙的半小時內的載客率達100%及在該一小時內的載客率達85%，或在非繁忙時段內的最繁忙一小時的載客率達60%)的專營巴士路線的編號；
- (三) 取消或與其他路線合併的準則(即在繁忙時段已維持在15分鐘一班，而非繁忙時段已維持在30分鐘一班，其在最繁忙一小時內的載客率仍低於50%)的專營巴士線的編號；及
- (四) 縮短行車路線的準則(即在被刪減路段最繁忙一小時間內的載客率不超過20至30%)的專營巴士路線的編號？

Bus routes meeting the criteria adopted by the Transport
Department for considering improvement or reduction
in bus service

(7) Hon Audrey EU Yuet-mee (Written Reply)

Will the Government inform this Council of the respective route numbers of franchised bus routes which at present meet the following criteria set out in the Guidelines on Service Improvement and Reduction in Bus Route Development Programmes issued by the Transport Department (“TD”):

- (a) an average occupancy rate below 85% during the busiest half-hour of the peak period, or below 30% during the off-peak period (for TD to consider frequency reduction);
- (b) an occupancy rate of 100% during the busiest half-hour of the peak period and 85% during that one hour, or 60% during the busiest one hour of the off-peak period (for TD to consider frequency improvement);
- (c) an occupancy rate below 50% during the busiest hour although the headway has been maintained at an interval of 15 minutes during peak hours and 30 minutes during off-peak hours (for TD to consider route cancellation or amalgamation with other routes); and
- (d) an occupancy rate of not more than 20% to 30% at the proposed truncated section during the busiest hour (for TD to consider route truncation)?

勞工及福利局員工從事無償加班工作

(8) 葉偉明議員 (書面答覆)

本人近日收到勞工及福利局的一羣員工(包括合約員工)的投訴，表示遭其上司或部門主管要求長期及長時間加班但不獲任何補償(“無償加班”)。投訴人亦指稱有否加班工作會作為考核其工作表現或考慮晉陞的準則之一。就此，政府可否告知本會：

- (一) 勞工及福利局和其轄下的勞工處及社會福利署(包括各辦事處及服務單位)現時是否已全面實施五天工作周；若是，實行的情況如何；以及五天工作周安排下的員工(包括公務員職系及非公務員職系員工)平均每周的標準工作時數(請按職級列出)；
- (二) 勞工及福利局是否知悉，勞工處及社會福利署的員工無償加班的情況是否普遍；各職級的員工每周無償加班的平均時數；部門主管有否向員工發出相關的指引或說明，表示無償加班將作為考核員工的工作表現及考慮晉陞的準則之一；
- (三) 作為專責研究標準工時的政策局，勞工及福利局有否帶頭監管及控制其轄下勞工處及社會福利署員工的工作時數，確保屬下員工受惠於五天工作周的安排，並只需按標準時數工作；如否，原因為何；及
- (四) 該局會否針對各政府部門，以至本港各行業僱員無償加班的問題進行專項統計，為將來展開標準工時的研究提供具

體數據；如會，詳情為何；如否，該局將透過甚麼方法取得僱員無償加班的資料作有關研究之用？

Uncompensated overtime work undertaken
by staff of the Labour and Welfare Bureau

(8) Hon IP Wai-ming (Written Reply)

Recently, I have received complaints from a group of staff from the Labour and Welfare Bureau (“LWB”), including contract staff, indicating that their supervisors or department heads had demanded them to undertake uncompensated overtime work for long hours over an extended period of time. The complainants also alleged that whether or not they had worked overtime had been used as one of the criteria for appraising their performance or considering their promotion. In this connection, will the Government inform this Council:

- (a) whether LWB as well as the Labour Department (“LD”) and Social Welfare Department (“SWD”) within its purview, including the various offices and service units of these departments, have fully implemented the five-day week arrangement at present; if they have, of the actual situation; and the average weekly standard working hours of staff (both in civil service grades and in non-civil service grades) under the five-day week arrangement, with a breakdown by rank;
- (b) whether LWB knows if it is common for LD and SWD staff to undertake uncompensated overtime work; of the average weekly hours of uncompensated overtime work undertaken by staff of various ranks; whether the department heads have issued related guidelines or instructions to the staff, indicating that uncompensated overtime work will be one of the criteria for appraising their performance and considering their promotion;
- (c) whether LWB, being the policy bureau responsible for the study on standard working

hours, has taken the lead in supervising and regulating the working hours of the staff of LD and SWD within its purview, so as to ensure that their staff can benefit from the five-day week arrangement, and that they only need to work according to standard working hours; if it has not, of the reasons for that; and

- (d) whether LWD will focus on the problem of uncompensated overtime work undertaken by employees of various government departments or even those in different sectors in Hong Kong and conduct a dedicated survey, so as to obtain specific data for the forthcoming study on standard working hours; if it will, of the details; if not, the means through which LWD will obtain information on uncompensated overtime work undertaken by employees for the study concerned?

在東鐵綫和馬鞍山綫沿綫車站加裝自動月台閘門

(9) 黃成智議員 (書面答覆)

關於香港鐵路有限公司(“港鐵公司”)在東鐵綫和馬鞍山綫沿綫車站加裝月台幕門或自動月台閘門的事宜，政府可否告知本會：

- (一) 鑒於運輸及房屋局於2010年6月9日回覆本會議員的質詢時表示，“由於東鐵綫部分車站有弧度較大的月台及較闊的月台空隙，因此要在沿綫車站加裝自動月台閘門等，必須妥善解決月台空隙的問題，減低乘客因視線被閘門阻擋而誤踏月台空隙的風險”，當局是否知悉：
- (i) 運輸及房屋局指月台“弧度較大”和月台空隙“較闊”的定義為何，以及有否客觀的量度標準；若有，詳情為何；若否，原因為何；
 - (ii) 東鐵綫及馬鞍山綫各個車站中，有弧度較大的月台及較闊的月台空隙的車站及其他車站的名稱分別為何(請按路綫列出)；及
 - (iii) 港鐵公司會否於只有直線月台的車站率先加裝月台幕門或自動月台閘門；若會，詳情及時間表為何；若否，原因為何；
- (二) 關於運輸及房屋局於2011年1月19日對本人的質詢的答覆的附件一所載乘客落入路軌的數字，當中涉及受傷和死亡

的人數分別為何，同時按車站及年份分項列出數字；

- (三) 鑒於港鐵公司於2011年1月在提交本會鐵路事宜小組委員會的文件中表示，“如果(在東鐵綫沿綫車站加裝)自動月台閘門和沙中綫(沙田至中環綫)兩個計劃一併進行，將能產生協同效應，但如兩個計劃分別進行，便會造成大量資源重疊和浪費”，當局是否知悉港鐵公司所指的“協同效應”及“大量資源重疊和浪費”的估量準則和方法為何及其詳情；若不知悉，原因為何，以及政府何時可取得該等資料；及
- (四) 鑒於港鐵公司在第(三)項所述的文件中亦表示，必須考慮加裝自動月台閘門後，對採用開放式設計的東鐵綫車站月台空氣流通的影響，並指有研究顯示，現有的車站通風系統需作出改善，才能為候車的乘客提供與安裝自動月台閘門前相若的候車環境，當局是否知悉港鐵公司(或在兩鐵合併前的其前身地鐵有限公司)在過去為其地底車站及現時於8個高架及地面車站加裝月台幕門或自動月台閘門時，有否就空氣流通問題進行研究；若有，該等研究及前述有關東鐵綫的研究的詳情分別為何；若否，原因為何？

Retrofitting automatic platform gates at stations
along the East Rail Line and Ma On Shan Line

(9) Hon WONG Sing-chi (Written Reply)

As regards retrofitting platform screen doors (“PSDs”) or automatic platform gates (“APGs”) at stations along the East Rail Line (“EAL”) and Ma On Shan Line (“MOSL”) of the MTR Corporation Limited (“MTRCL”), will the Government inform this Council:

- (a) given that in its reply to a question raised by a Member of this Council on 9 June 2010, the Transport and Housing Bureau (“THB”) indicated that “as there are platforms with relatively greater curvatures and wider platform gaps at some stations of the East Rail Line, the problem of wide platform gaps has to be properly resolved before APGs are installed at stations along the line in order to reduce the risk of passengers inadvertently stepping into the platform gaps because of sight line obstructions caused by the APGs”, whether the authorities know:
 - (i) the definitions of “relatively greater curvatures” of the platforms and “wider platform gaps” referred to by THB, and whether there are objective measurement standards for such; if yes, of the details; if not, the reasons for that;
 - (ii) among the stations along EAL and MOSL, the names of those stations having platform(s) with relatively greater curvatures and wider platform gaps, as well as other stations (please list the stations by rail line); and
 - (iii) whether MTRCL will first retrofit PSDs or APGs at those stations with straight

platforms only; if so, of the details and timetable; if not, the reasons for that;

- (b) concerning the numbers of passengers who fell onto tracks as set out in Annex I of THB's reply to my question on 19 January 2011, of the respective numbers of injuries and deaths among such cases, with a breakdown by station and year;
- (c) given that MTRCL indicated in its paper submitted to the Subcommittee on Matters Relating to Railways in January 2011 that "Synergy can be identified through integrating the APG and SCL (the Shatin to Central Link) projects while large amounts of redundancy and wastage would be incurred if the two were implemented separately", whether the authorities know the criteria and methods for evaluating the "synergy" and "large amounts of redundancy and wastage" referred to by MTRCL, as well as the details; if not, of the reasons for that, and when the Government can obtain such information; and
- (d) given that MTRCL also indicated in the paper mentioned in (c) that consideration must be given to the impact that APGs would have on the circulation of air on EAL platforms, and that studies showed that existing station ventilation would have to be improved to maintain a comparable environment as before the installation of APGs for passengers waiting for trains on platforms, whether the authorities know if MTRCL (or its predecessor, the MTRCL before the rail merger) had studied the issue of ventilation when it retrofitted PSDs or APGs at other underground stations in the past and if it has conducted such studies at present when retrofitting PSDs or APGs at the eight aboveground and at-grade stations; if so, of the

respective details of such studies and the aforesaid studies on EAL; if not, the reasons for that?

《香港人權法案條例》的實施情況

(10) 劉慧卿議員 (書面答覆)

前立法局於1991年6月制定的《香港人權法案條例》(“人權法”) (第383章)實施至今已近20年。就人權法的實施情況，行政機關可否告知本會：

- (一) 自人權法生效至今，該條例中曾被修訂或已廢除的條文的內容、由誰提出修訂或廢除有關條文，以及修訂或廢除有關條文的原因(按修訂或廢除的年份逐一列出)；
- (二) 過去20年，法院曾裁定哪些法律條文、政策、措施及專業守則違反人權法，並以列表方式逐一列出該等案件的名稱和編號，以及判案書宣告日期；及
- (三) 當局因應第(二)項的法院裁決修訂了哪些法律條文、政策、措施及專業守則(逐一列出)；若沒有就部分裁決作出相應修訂，原因為何？

Implementation of the Hong Kong Bill of Rights Ordinance

(10) Hon Emily LAU Wai-hing (Written Reply)

The Hong Kong Bill of Rights Ordinance (Cap. 383) (“HKBORO”), enacted in June 1991 by the former Legislative Council, has been implemented for nearly 20 years. Regarding the implementation of HKBORO, will the Executive Authorities inform this Council:

- (a) since HKBORO came into operation, of the contents of the provisions in HKBORO which had been amended or repealed, the parties that put forward the proposals of amending or repealing such provisions, and the reasons for amending or repealing such provisions (set out each item by the year in which the provisions were amended or repealed);
- (b) of the statutory provisions, policies, measures and professional codes which had been ruled by the courts to be in contravention of HKBORO in the past 20 years, and list in table form the name and case number of each case, as well as the dates on which the relevant judgments were delivered by the court; and
- (c) of the statutory provisions, policies, measures and professional codes which were amended by the authorities in response to the court rulings in (b) (set out each of the cases); if amendments have not been made in response to some of the court rulings, of the reasons for that?

低地台巴士

(11) 陳偉業議員 (書面答覆)

就往返天水圍的巴士路線的大部分班次並非以可供輪椅上落的低地台巴士行走一事，本人曾於2009年5月6日的本會會議上提出質詢。據悉，現時有關路線的大部分班次仍然不是以低地台巴士行走，以致輪椅使用者的候車時間往往超過30分鐘。就此，政府可否告知本會：

- (一) 在2009年5月至2010年5月及2010年6月至今的兩段期間，每間專營巴士公司的車隊分別增添的低地台巴士的數目及百分比；
- (二) 現時每天以低地台巴士行走往返天水圍的路線的班次數目，以及該數目佔有關的班次總數的百分比，以及該等數字與2009年5月的相關數字如何比較；及
- (三) 會否重新考慮在日後與巴士公司簽訂的專營權協議加入條款，規定有關公司必須在所有現役非低地台巴士加設方便輪椅使用者上落的設施；若會，詳情為何；若否，原因為何？

Low-platform buses

(11) Hon Albert CHAN Wai-yip (Written Reply)

On 6 May 2009, I raised a question in this Council regarding the issue that most of the trips of the bus routes to and from Tin Shui Wai were not serviced by wheelchair-accessible low-platform buses. It has been learnt that as most of these trips are at present still not serviced by low-platform buses, wheelchair users often have to wait for more than 30 minutes for such buses. In this connection, will the Government inform this Council:

- (a) of the respective numbers of low-platform buses added to the fleet of each franchised bus company and the respective percentages of such addition during the two periods from May 2009 to May 2010 and from June 2010 to the present;
- (b) of the daily number of trips of the bus routes to and from Tin Shui Wai which are run by low-platform buses at present, and the percentage of such number in the total number of relevant bus trips, and how such figures compare with the relevant figures in May 2009; and
- (c) whether it will reconsider adding a clause to the future franchise agreements with the franchised bus companies, requiring them to retrofit facilities to all in-service non-low-platform buses to make it convenient for wheel-chaired users to board and alight buses; if it will, of the details; if not, the reasons for that?

實施法定最低工資法例

(12) 梁國雄議員 (書面答覆)

本年3月22日，香港僱主聯合會(“僱主聯會”)在報章刊登廣告，舉例說明在法定最低工資法例實施後，一名月薪5,796元的僱員，以每天工作9小時及每月工作23天計算，如計算工資時將休息日及用膳時間包括在內，該僱員的月薪便達8,456元，僱主因而需增加該僱員的月薪2,660元。僱主聯會建議僱主在本年5月1日前審視及修訂月薪制員工的合約，或需列明用膳時間及休息日“不作受薪處理”。有不少市民向本人表示，他們憂慮僱主“走法律罅”，透過修改合約扣除員工用膳時間及休息日的薪金。就此，政府可否告知本會：

- (一) 有否評估，扣除員工用膳時間及休息日的薪金是否《最低工資條例》(第608章)的立法原意；若是，政府對有薪用膳時間及休息日的立場是怎樣；若否，政府會否公開譴責僱主聯會，以保障香港僱員的利益；
- (二) 有否評估，上述廣告的內容有否違反政府制訂的《法定最低工資參考指引》；若有違反，政府會怎樣跟進；若沒有違反，政府有否評估《最低工資條例》是否有不足之處；
- (三) 有否評估，僱主聯會的廣告有否教唆僱主修訂僱傭合約，以便他們在計算僱員的法定最低工資時，即使不把僱員的用膳時間及休息日計算在內，亦不會違反《最低工資條例》；
- (四) 有否有效的法例嚴懲一些“喪盡天良”和刻意扣減僱員用膳時間及休息日薪金

的僱主；若有，有關法例及罰則是甚麼、以及由哪些政府部門執法；若否，政府會否緊急立法，以保障香港僱員的利益；及

- (五) 政府制定《最低工資法例》前，有否就扣除員工用膳時間及休息日的薪金是否合理的做法諮詢立法會各黨派或獨立的議員；若有，有哪些黨派或獨立的議員認同該做法；若否，政府會否立即就僱主聯會的建議“撥亂反正”？

Implementation of statutory minimum wage legislation

(12) Hon LEUNG Kwok-hung (Written Reply)

On 22 March this year, the Employers' Federation of Hong Kong ("EFHK") placed an advertisement in the press, providing an example to illustrate that after the implementation of statutory minimum wage legislation, the salary of an employee who works nine hours per day for 23 days in a month and is currently paid \$5,796 monthly will reach \$8,456 per month, if rest days and meal breaks are included in the calculation of monthly wages. As a result, the employer has to increase that employee's monthly salary by \$2,660. EFHK suggested that employers should, before 1 May this year, examine and revise the employment contracts of their monthly paid employees, and it might be necessary to state that meal breaks and rest days "should not be treated as if they are paid". Quite a number of members of the public have relayed to me their worries that employers will, by "exploiting loopholes in the law", revise contracts to deduct employees' wages in respect of meal breaks and rest days. In this connection, will the Government inform this Council:

- (a) whether it has assessed if the deduction of employees' wages in respect of meal breaks and rest days is the legislative intent of the Minimum Wage Ordinance (Cap. 608); if it is, of the Government's stance on paid meal breaks and paid rest days; if not, whether the Government will publicly reprimand EFHK so as to safeguard the interests of employees in Hong Kong;
- (b) whether it has assessed if the content of the aforesaid advertisement has violated the reference guidelines on statutory minimum wage made by the Government; if it has violated those guidelines, how the Government will follow up this; if not, whether the Government has

assessed if there are inadequacies in the Minimum Wage Ordinance;

- (c) whether it has assessed if EFHK's advertisement has abetted employers to revise employment contracts, so that they will not violate the Minimum Wage Ordinance even if employees' meal breaks and rest days are excluded from the computation of statutory minimum wage;
- (d) whether there is any effective legislation to impose severe punishment on such employers who are "unscrupulous" and deliberately deduct employees' wages in respect of meal breaks and rest days; if so, of the legislation and the penalty concerned, and which government departments are responsible for enforcing the legislation; if not, whether the Government will enact emergency legislation to safeguard the interests of the employees in Hong Kong; and
- (e) before the enactment of the Minimum Wage Ordinance, whether the Government has consulted Members of various political parties/groupings or independent Members of the Legislative Council on whether the deduction of employees' wages in respect of meal breaks and rest days is reasonable; if it has, which political parties/groupings or independent Members have concurred with such practice; if not, whether the Government will promptly "bring order out of chaos" with regard to EFHK's suggestion?

領匯管理有限公司管理的停車場泊車位

(13) 甘乃威議員 (書面答覆)

最近多個地區均有公共屋邨及居者有其屋計劃(“居屋”)屋苑的住戶表示，領匯管理有限公司(“領匯公司”)最近突然不再向他們出租該公司轄下停車場的泊車位。領匯公司回覆本人的查詢時表示，此舉是為了遵守停車場的地契條款(包括限定租用者的身份及各類型泊車位的數目等)。另一方面，領匯公司如有意把轄下停車場的泊車位出租予非有關公共屋邨住戶的人士(“非住戶”)，須向當局申請豁免遵守有關的政府租契條件，並支付費用。就此，政府可否告知本會：

- (一) 有否評估是否由於當初在規劃各區的泊車位數目時沒有考慮實際需要，以致現時出現泊車位的供求錯配的情況，例如部分地區完全沒有電單車及貨車的泊車位，而居民又不能使用附近的領匯停車場的問題；
- (二) 若第(一)項的規劃失誤屬實，使有泊車需要的市民因而受害，為何當局不主動撥亂反正，以期方便市民，以及當局是否看重向領匯公司收取豁免費的收入；豁免費用如何計算，會否參考類近停車場(例如香港房屋委員會(“房委會”)管理的停車場)的營運開支成本；
- (三) 房委會售予領匯房地產投資信託基金的178個公共屋邨／居屋屋苑停車場的私家車泊車位、電單車泊車位、輕型貨車泊車位及重型貨車泊車位的數目、現出租予政府租契所指的合資格人士和

非住戶的各類泊車位數目、空置數目、出租率，以及如適用，各類泊車位已獲永久豁免批出規劃許可的上限數目、現時仍生效的臨時豁免批出規劃許可的豁免終止日期、已失效的臨時豁免批出規劃許可的豁免終止日期，並按以下類別、18個區議會分區及停車場名稱列出分項數字及資料：

- (i) 已獲永久豁免批出規劃許可，可出租剩餘車位予非住戶的停車場；
 - (ii) 臨時豁免批出規劃許可(可出租剩餘車位予非住戶)仍生效的停車場；
 - (iii) 臨時豁免批出規劃許可(可出租剩餘車位予非住戶)已失效的停車場；及
 - (iv) 沒有獲得永久豁免或未曾獲得臨時豁免批出規劃許可的停車場；
- (四) 現時當局已收到多少宗領匯公司的豁免申請、涉及的停車場名稱、各類泊車位的數目、現有契約的租值估計、批出豁免後的新租值估計、申請提交至今的時間，以及估計領匯公司的各類泊車位當中有多少剩餘車位可出租予非住戶，並按18個區議會分區列出分項數字；
- (五) 當局於2010年1月回覆本會議員的查詢時表示，領匯公司已就15個屋邨的停車

場向地政總署提出短期豁免書申請，該等申請的最新進度為何；現時政府就領匯公司提出的其他豁免申請的跟進及審批進度為何；

- (六) 鑒於領匯曾向葵青及大埔區議會表示，地政總署“提出相等於豁免期內百分百出租情況下之85%收入為豁免費用”，85%的比率是如何訂出；為何豁免費用是以“豁免期內百分百出租情況”，而非以實際出租率來計算；
- (七) 是否知悉，現時停泊於領匯公司轄下停車場的貨車泊車位的校巴、保母車及復康巴士等特別用途車輛的數目，以及按有關的地契條款，該等車輛是否不能停泊於領匯公司的貨車泊車位；
- (八) 當局打算如何處理“有車沒位泊、有位沒車泊”的問題，以及會如何安置第(七)項提及的車輛；及
- (九) 當局會否考慮一次過處理相關的地契問題，重新就各區的泊車位需求修訂有關的停車場地契，以免領匯公司須定期提出豁免申請？

Parking spaces in car parks managed by The Link
Management Limited

(13) Hon KAM Nai-wai (Written Reply)

Recently, some residents of public rental housing (“PRH”) estates and Home Ownership Scheme (“HOS”) courts in quite a number of districts have indicated that The Link Management Limited (“The Link”) has suddenly ceased to lease the parking spaces in its car parks to them recently. In reply to my enquiry, The Link said that such cessation was made in order to comply with the lease conditions of the car parks (including restrictions on the status of the tenants and the numbers of various types of parking spaces, etc). On the other hand, should The Link wish to lease the parking spaces in its car parks to non-residents of the PRH estates concerned (“non-residents”), it has to apply to the authorities for waiver of the relevant government lease conditions and pay waiver fees. In this connection, will the Government inform this Council:

- (a) whether it has assessed if the current mismatch in the demand and supply of parking spaces (e.g. the absence of parking spaces for motorcycles and goods vehicles in some districts while the residents are not allowed to use the nearby car parks of The Link) is caused by the actual needs not having been considered in the first place during the planning of the number of parking spaces in various districts;
- (b) if the planning blunder in (a) is proved to be true which has caused members of the public with parking needs to suffer, why the authorities have not, for the convenience of the public, rectified such planning blunder proactively, and whether the authorities attach importance to the income of waiver fee payable by The Link; how the waiver fees are calculated, and whether reference will be made to the operating expenses

of similar car parks (such as those managed by the Hong Kong Housing Authority (“HA”));

- (c) regarding the 178 car parks in public housing estates/HOS courts that HA sold to The Link Real Estate Investment Trust, of the respective numbers of parking spaces for private cars, motorcycles, light goods vehicles and heavy goods vehicles in these car parks, the respective numbers of the various types of parking spaces currently leased to eligible persons specified in the government leases and to non-residents, the number of vacant spaces, the occupancy rate, and, where applicable, the ceilings of the various types of parking spaces to which permanent waivers of planning permissions have been granted, the expiry dates of temporary waivers of planning permissions which are still valid at present, and the expiry dates of temporary waivers of planning permissions which have become invalid, with a breakdown of the figures and information by the following categories, 18 District Council (“DC”) districts, and the names of the car parks:
 - (i) the car parks to which permanent waivers of planning permissions have been granted, thus allowing surplus parking spaces to be leased to non-residents;
 - (ii) the car parks to which the temporary waivers of planning permissions (allowing surplus parking spaces to be leased to non-residents) granted are still valid;
 - (iii) the car parks to which the temporary waivers of planning permissions (allowing surplus parking spaces to be

leased to non-residents) granted have become invalid; and

- (iv) the car parks to which both permanent and temporary waivers of planning permissions have not been granted;
- (d) of the present number of waiver applications which the authorities have received from The Link, the names of the car parks involved, the numbers of the various types of parking spaces, the estimated rental value under the existing leases, the estimated new rental value after the granting of the waivers, for how long such applications have been submitted, and among the various types of parking spaces of The Link, the estimated number of surplus parking spaces available for leasing to non-residents, together with a breakdown by 18 DC districts;
- (e) given that in reply to an enquiry from a Member of this Council in January 2010, the authorities indicated that The Link had applied to the Lands Department for short-term waivers in respect of the car parks in 15 housing estates, of the latest progress of these applications; the current progress of the Government's follow-up on, as well as the vetting and approving of, other waiver applications submitted by The Link;
- (f) given that The Link told the Kwai Tsing and Tai Po DC that the Lands Department "has set the waiver fee at a level equivalent to 85% of the income at full occupancy within the waiver period", how the rate of 85% is determined; why the waiver fee is calculated on the basis of "full occupancy within the waiver period", instead of the actual occupancy rate;
- (g) whether it knows the number of special purpose vehicles, such as school buses, school private light buses and rehabuses, etc. parked at the

parking spaces for goods vehicles in the car parks of The Link at present, and whether these vehicles are not permitted to park at the parking spaces for goods vehicles of The Link under the relevant lease conditions;

- (h) how the authorities plan to deal with the problem that “some drivers are unable to find parking spaces for their vehicles while some parking spaces are left vacant”, and how the authorities will make arrangements regarding the parking of the vehicles in (g); and
- (i) whether the authorities will consider dealing with the relevant land lease problems in one go and amend afresh the land leases of the relevant car parks according to the demand for parking spaces in various districts, so that The Link is not required to submit waiver applications on a regular basis?

企業面對的稅務問題

(14) 林大輝議員 (書面答覆)

關於從事加工業務的本港企業在香港面對的稅務問題，政府可否告知本會：

- (一) 鑒於高等法院案件HCAL49/2009的判決書顯示，稅務局曾評定某企業須就1997-1998至2002-2003年度繳納稅款約14億元，但該企業提出反對，稅務局局長便要求它購買共值4億3千萬元的儲稅券，該企業其後在年報披露以少於2億元的款項與稅務局解決1997-1998至2008-2009年度的稅務糾紛，稅務局局長根據甚麼準則決定要求納稅人購買儲稅券的金額，以及有何機制監管稅務局局長行使發出“有條件緩繳稅款令”的法定權力；
- (二) 鑒於企業對評稅結果提出反對或上訴後，根據《稅務條例》(第112章)的規定，如企業最終敗訴，獲緩繳的稅款必須按“判定債項利息”計算利息(現時為年利率8%)，如勝訴，其所購買的儲稅券只能得回以儲稅券息率計算的利息(現時年利率為0.0433%)，當局有否評估，兩者息率存在大幅度差距的原因；儲稅券的低息率讓政府即使敗訴也只須賠償較少利息，會否使稅務局局長因成本風險低而傾向隨便要求企業購買巨額儲稅券；以及當局將敗訴個案涉及的稅款利息訂以“判定債項利息”的較高息率計算，是否旨在以懲罰性的息率阻嚇企業行使反對評稅結果或提出上訴的權

利，當局有否評估該做法是否對企業造成不公平情況；

- (三) 有否評估，稅務局要求企業在稅務爭議未有定案之前須購買巨額的儲稅券或提供銀行承諾，會否嚴重打擊企業的現金流和增加借貸利息支出，令它們承受沉重的成本和心理負擔，導致它們在稅務爭議中處於下風；
- (四) 稅務局現時採用的先評後核安排有何法律依據；是否有個案不適合採用先評後核安排；如有，有甚麼個案以及原因為何；
- (五) 鑒於在現行的先評後核安排下，稅務局不會即時知會企業其報稅表出錯，其後才一次過追討企業過去多年的稅款，對其稅負造成難以負擔的滾雪球效應，即使企業出錯之處只是與稅務局對稅例持不同意見，當局有否評估，對於具爭議性的個案，例如《稅務條例》第39E條（“第39E條”）及以50:50比例分攤方法計算香港利得稅（“50:50”）的個案，可否不採用上述安排，改為由評稅人員審查後才評稅；如否，原因為何；
- (六) 鑒於稅務局現時對於涉及“來料加工”的個案特許給予境外機器的折舊免稅額，當局可否對於涉及“進料加工”的個案給予同樣的特許；如否，原因為何；
- (七) 鑒於在英國 *Davies & Anor, R v HM Revenue & Customs*(2010)一案中，法官指出稅務局發出的指引具有法律效力，而香港稅務局於1998年發出的第21

號稅務條例釋義及執行指引並沒有指明50:50評稅基準只適用於從事“來料加工”但不適用於從事“進料加工”的企業，當局有否評估，稅務局對該等按照第21號指引作出安排的本港企業施加懲處是否公平和合理的做法；如有評估，詳情為何；如沒有評估，原因為何；

- (八) 鑒於有工商業人士反映，有評稅主任曾對該些就評稅結果提出反對或上訴的企業表示，若企業不遵照要求購買儲稅券及與稅務局妥協，他們便會將其個案轉交稅務局實地審核及調查科進行徹底審查，當局有否評估，此做法是否恰當及會否令有關企業產生不安，影響其行使提出上訴或反對評稅結果的法律權利；
- (九) 鑒於當局於2010年3月邀請稅務聯合聯絡小組(“小組”)檢討第39E條的實施情況，又於同年11月宣布拒絕接受小組的所有相關建議，當局會否評估小組的作用，以及考慮將小組解散；
- (十) 鑒於當局以小組沒有提出有效措施以堵塞可能出現的避稅漏洞為理由，拒絕接受其建議，當局本身有否就這議題進行研究；如有，可否將研究的報告及資料公開；如否，原因為何；及
- (十一) 鑒於法院認可的“目的為本”原則及《釋義及通則條例》(第1章)第19條均要求在進行法例詮釋時必須確定立法用意，以及終審法院在《香港醫務委員會對周兆碩》(2000年)一案中指出“若要詮釋以確定某一法規的真正用意，便需參考所有

有關的條文，並需將整條法規視為有關法律背景及社會形勢下的一個有其目的之整體，再將兩者連貫起來一併考慮方可”，稅務局局長在 **CIR v. Sawhney(HCIA1/2006)**一案中也持同一論調，當局有否評估，稅務上訴委員會在編號**D61/08**的個案的判詞中指第**39E**條的條文本身沒有規定須具有避稅目的才能引用是否一個正確的裁決；如有評估，詳情為何；如沒有評估，原因為何？

Taxation problems faced by enterprises

(14) Dr Hon LAM Tai-fai (Written Reply)

Regarding the taxation problems faced by Hong Kong enterprises engaged in processing operations, will the Government inform this Council:

- (a) given the judgment in the High Court case HCAL49/2009 has revealed that the Commissioner of Inland Revenue (“Commissioner”) demanded a certain enterprise to purchase Tax Reserve Certificates (“TRCs”) for a total value of \$430 million, upon the objections lodged by the enterprise against the tax assessments, which stood at approximately \$1.4 billion in relation to the years from 1997-1998 to 2002-2003 as assessed by the Inland Revenue Department (“IRD”), and the enterprise disclosed subsequently in its annual report that its tax disputes with IRD relating to the years from 1997-1998 to 2008-2009 were settled by paying a sum of less than \$200 million, what criteria are adopted by the Commissioner in determining the amount of TRCs which a taxpayer is required to purchase, as well as what mechanism is in place for monitoring the Commissioner’s exercise of the statutory power to issue the “Conditional Standover Order”;
- (b) given the provision of the Inland Revenue Ordinance (Cap. 112) (“Ordinance”) that upon the lodging of an objection or appeal against tax assessments by an enterprise, interest shall be payable on the tax held over at the “Judgment Interest Rate” (8% per annum at present) if the enterprise concerned fails the case eventually, whereas interest shall be payable on the TRCs it purchased at the interest rate on TRCs (0.0433% per annum at present) if the case is successful,

whether the authorities have examined the reason for the substantial difference between the two interest rates; since the low interest rate on TRCs will lead to the relatively small amount of interest payable by the Government even when it fails the case, whether, as a result, the Commissioner will be inclined to casually require enterprises to purchase huge amount of TRCs as cost risks are low; given that the authorities have prescribed that the interest payable on tax payment in unsuccessful cases is to be calculated at the “Judgment Interest Rate” which is a relatively high interest rate, whether it is meant to deter enterprises from exercising the right to lodge objections or appeals against tax assessments by charging a penal rate of interest; whether the authorities have assessed if such a practice is unfair to the enterprises;

- (c) whether it has assessed if IRD’s demanding enterprises to purchase huge amounts of TRCs or furnish bankers’ undertakings before their tax disputes are settled will deal a severe blow to their cash flow and increase their expenditure on loan interests, thus imposing heavy cost and psychological burdens on them and putting them in a disadvantaged position in tax disputes;
- (d) of the legal basis for IRD to adopt the current arrangement of “Assess First Audit Later”; whether there is any case to which this practice is not applicable; if so, of the cases and the reasons for that;
- (e) given that under the existing “Assess First Audit Later” arrangement, the subsequent one-off recovery by IRD from enterprises of unpaid taxes accumulated over the past years without promptly informing them of the errors in their tax returns in the first place will create an unaffordable snow-ball effect on their tax

burden, even though their errors are just a result of the differences in the views between them and IRD on tax legislation, whether the authorities have assessed if the arrangement of “Assess First Audit Later” can be replaced by that of “Audit First Assess Later” for controversial cases such as those concerning section 39E of the Ordinance (“section 39E”) and the assessment of Hong Kong profits tax on a 50:50 basis of apportionment; if they have not, of the reasons for that;

- (f) given that at present, IRD grants special depreciation allowances for cross-border machinery for cases engaged in “contract processing”, whether the authorities will grant the same special allowances for cases engaged in “import processing”; if they will not, of the reasons for that;
- (g) given that in the case of *Davies & Anor, R v HM Revenue & Customs (2010)* in Britain, the Judge pointed out that the taxation authorities’ published guidance was legally enforceable, whereas in the Departmental Interpretation and Practice Notes (“DIPN”) No. 21 issued by IRD in 1998, it does not stipulate that the 50:50 basis of apportionment of profit tax applies only to enterprises engaged in “contract processing” but not to enterprises engaged in “import processing”, whether the authorities have assessed if it is a fair and reasonable practice for IRD to impose penalty on those local enterprises that have made arrangements according to DIPN No. 21; if they have, of the details; if not, the reasons for that;
- (h) given that some members of the commercial and industrial sectors have relayed to me that some assessors have told the enterprises which had raised objections or lodged appeals to tax

assessments that if the enterprises do not comply with IRD's request of purchasing TRCs and compromise with IRD, they would pass their cases to the Field Audit and Investigation Unit of IRD for thorough investigations, whether the authorities have assessed if such a practice is appropriate and whether this will make the enterprises concerned feel uneasy, thereby affecting them in exercising their legal rights of lodging appeals or raising objections to tax assessments;

- (i) given that the authorities invited the Joint Liaison Committee on Taxation ("JLCT") in March 2010 to review the implementation of Article 39E, and then they announced in November of the same year that they refused to accept all the recommendations made by JLCT, whether the authorities will assess the functions of JLCT and consider dismissing it;
- (j) given that the authorities have refused to accept the recommendations of JLCT on the ground that it has not proposed effective measures to plug possible tax avoidance loopholes, whether they have conducted studies on their own on this subject; if they have, whether the report and information of the study can be disclosed to the public; if not, of the reasons for that; and
- (k) given that the purposive approach, which has been recognized by the courts, and section 19 of the Interpretation and General Clauses Ordinance (Cap.1) both require that in interpreting law, the legislative intent must be established, and that in *Medical Council of Hong Kong v Chow Siu Shek David*, the Court of Final Appeal states, "When the true position under a statute is to be ascertained by interpretation, it is necessary to read all of the relevant provisions together and in the context of the whole statute

as a purposive unity in its appropriate legal and social setting”, and that the Commissioner also holds the same view in the case of *CIR v. Sawhney (HCIA1/2006)*, whether the authorities have assessed if the decision made by the Board of Review on the case D61/08, which contains the comments that “From the provision (of section 39E) itself, it does not require an intention to avoid tax for its application”, is a correct one; if they have assessed, of the details; if not, the reasons for that?

嬰兒奶粉供應

(15) 馮檢基議員 (書面答覆)

據報，日本發生的核輻射洩漏事故，引致近日本港市面出現搶購嬰兒奶粉的情況，令供應更趨緊張。有市民批評部分店舖“坐地起價”，更有店舖將奶粉與其他貨品捆綁出售。消費者委員會(“消委會”)於2011年3月出版的《選擇》中披露，該會調查市面上33款主要牌子的嬰幼兒奶粉，發現其中24款的平均售價升幅達4至12%(按2009年4月至2010年2月，及2010年至2011年同期的價格作比較)，升幅高於同期的食品通脹率(3.6%)。調查亦發現，部分受歡迎牌子奶粉的缺貨率甚高，最高達64%，相信非本地人士搶購是缺貨率高企的原因之一。就此，政府可否告知本會：

- (一) 當局有否瞭解嬰兒奶粉零售價的升幅遠高於食品通脹率的原因；以及有否出現囤積居奇和炒賣的情況；鑒於消委會倡議奶粉供應商擬定業內守則，確保本地消費者取得供應，政府會否考慮促成奶粉供應商擬定業內守則，包括確保本地消費者有足夠供應，以及採取不供貨手段以對付抬價銷售奶粉的零售店舖；
- (二) 鑒於最近搶購嬰兒奶粉的情況嚴重，當局有何具體措施確保奶粉供應充足及價格穩定，防止價格被炒高；以及有何措施保障基層市民無需負擔高昂的奶粉開支；及
- (三) 當局會否藉此機會向公眾宣傳母乳餵哺的好處，並加強公眾教育，以消除公眾誤以為奶粉的營養成份較母乳更高

更全面的誤解、釋除父母對轉用其他牌子奶粉可能影響嬰兒健康的疑慮以使他们考慮選用供應較穩定的牌子奶粉，以及改變父母盲目追捧名牌奶粉的現況；若會，具體內容為何；若否，原因為何？

Supply of infant formulas

(15) Hon Frederick FUNG Kin-kee (Written Reply)

It has been reported that the incident of radiation leak in Japan has sent consumers scrambling for infant formulas in Hong Kong recently, thus further tightening the supply. Some members of the public criticized that some shops had increased the price excessively, and some even bundled the sale of infant formulas with other goods. As revealed by the CHOICE magazine published by the Consumer Council (“CC”) in March 2011, of the 33 items of the major brands of infant formulas surveyed, 24 had had their average retail prices increased from 4% to 12% (comparing the prices for April 2009 to February 2010 with those for the same period from 2010 to 2011), registering an increase in price higher than the food price inflation rate (3.6%) for the corresponding period. The survey also shows that the out-of-stock rate of infant formulas of some popular brands was as high as 64%, and it is believed that the scrambling for these products by non-local people is one of the causes of the heightened out-of-stock rate. In this connection, will the Government inform this Council:

- (a) whether the authorities have looked into the reasons why the increase in retail prices of infant formulas is much higher than the food price inflation rate; and whether there is stockpiling and hoarding for speculation; given that CC has urged formula suppliers to consider setting up an industry code of practice to ensure adequate supply to local consumers, will the Government consider facilitating the trade in drawing up a code of practice, including ensuring adequate supply to local consumers and adopting the means of suspending supply to retail shops which raise the price of infant formulas unreasonably;

- (b) given the recent situation of intense scrambling for infant formulas, of the authorities' concrete measures to ensure adequate supply and stabilize the prices of infant formulas, so as to avoid speculative surge of prices; and what measures are in place to ensure that the grassroots need not bear huge expenses on infant formulas; and
- (c) whether the authorities will grasp this opportunity to promote the benefits of breastfeeding to the public and step up public education, so as to eliminate the misconception of the public that infant formulas are richer and more comprehensive in nutrient components than breastmilk, and to address parents' concern that switching to other brands of infant formulas may affect the health of their babies, so that they will consider choosing other brands with relatively stable supply, and to change the current situation of the blind worship of famous brands by parents; if they will, of the specific details; if not, the reasons for that?

國際航空運輸協會對空運市場的影響

(16) 謝偉俊議員 (書面答覆)

絕大部分在港經營的航空公司是國際航空運輸協會(“協會”)的成員。早前協會單方面知會全港的註冊旅行代理商(“旅行社”),使用有關訂票的BSP系統購買機票的付款期(即購買機票後旅行社需向航空公司繳付機票費用的期限),將由原來的15日縮短至7日。有業界人士指出,該項安排嚴重影響旅行社的資金周轉,部分旅行社更可能因而結業。就此,政府可否告知本會:

- (一) 鑒於有業內人士指出,基於多個國家制定了反壟斷法例,航空公司一般盡量避免就其營運模式作任何協商或協議,但它們卻往往透過協會落實操控市場的營運模式及措施,當局有否評估有關行為是否《競爭條例草案》擬規限的反競爭行為;政府可否承諾在該法案獲通過後,立刻審視協會與相關航空公司作出的相關安排有否違反公平競爭的原則;及
- (二) 在《競爭條例》生效前,政府有沒有其他政策或手段監察航空公司合謀操控市場的行為,以捍衛公平競爭的原則?

Influence of the International Air Transport Association
on the air transport market

(16) Hon Paul TSE Wai-chun (Written Reply)

A great majority of the airlines operating in Hong Kong are members of the International Air Transport Association (“the Association”). Earlier, the Association has unilaterally notified all registered travel agents in Hong Kong that the payment period for the Billing and Settlement Plan in respect of the purchase of air tickets (i.e., the period within which travel agents are required to effect payment to airlines after purchase of air tickets) will be shortened from the original 15 days to seven days. Some members of the trade have pointed out that such an arrangement has seriously impacted the cash flow of travel agents, and some of them may possibly be closed down as a result. In this connection, will the Government inform this Council:

- (a) as some members of the trade have pointed out that given the enactment of anti-trust laws by a number of countries, airlines generally avoid, as far as possible, entering into any negotiation or agreement in respect of their operation mode, yet they often manipulate the operation mode of the market and implement measures for such purpose through the Association, whether the authorities have assessed if the act concerned is anti-competitive conduct which is proposed to be regulated under the Competition Bill; whether the Government can undertake that, after the passage of the Bill, it will examine immediately if the relevant arrangement between the Association and the airlines concerned have violated the principle of fair competition; and
- (b) whether the Government has, before the Competition Ordinance comes into operation, any other policies or means to monitor if the airlines have acted in collusion to manipulate the

market, so as to uphold the principle of fair competition?

香港的證券交易所的競爭力

(17) 石禮謙議員 (書面答覆)

據報，雖則在香港的證券交易所交易的證券的市場資本總值位列世界第七，而本港的金融服務業佔本地生產總值約16%，但由於交易成本高昂，香港的證券成交量近年始終未能擠身十大。亦有報道指出，香港的證券交易成本分別較美國和英國高35%及25%，令機構投資者不願意時常進行交易，影響整體成交量。就此，政府可否告知本會：

- (一) 有否考慮推出措施降低證券交易成本，以維持香港的證券交易所的競爭力；若有，有關的公眾諮詢時間表的詳情為何；
- (二) 鑒於可協助減低交易成本的黑池已在美國、歐洲及日本設立，政府會否考慮鼓勵在本港發展黑池以刺激交易；若會，詳情為何；若否，原因為何；及
- (三) 鑒於有報道指出，香港交易所(“港交所”)將於未來3年動用10億元設立極速數據及處理中心，以增加市場的流通量，政府是否知悉，港交所會否採取措施紓緩如此高速自動化交易可能引致的市場波動，使類似去年在美國曾導致杜瓊斯工業平均指數在短短數分鐘內暴跌700點的閃電崩盤事件不會在香港發生？

The competitiveness of the Hong Kong stock exchange

(17) Hon Abraham SHEK Lai-him (Written Reply)

It has been reported that although the market capitalization of the securities traded in the stock exchange of Hong Kong is the world's seventh-largest, and the financial services industry in Hong Kong accounts for about 16% of the gross domestic products, the securities turnover of Hong Kong in recent years has never reached the top 10 because of the high trading costs. It has also been reported that the securities trading costs in Hong Kong are 35% and 25% higher than those in the United States ("US") and the United Kingdom respectively, which discourages institutional investors from trading frequently and thus impacts on the overall trading volume. In this connection, will the Government inform this Council:

- (a) whether it has considered implementing any measure to lower the securities transaction costs so that the competitiveness of Hong Kong's stock exchange may be maintained; if so, of the details regarding its timetable for public consultation;
- (b) given that dark pools which help keep trading costs down have already been established in the US, Europe and Japan, whether the Government will consider encouraging the development of dark pools in Hong Kong to boost trading; if so, of the details; if not, the reasons for that; and
- (c) as it was reported that the Hong Kong Exchanges and Clearing Limited would spend \$1 billion to build a lightning-fast data and processing centre over the next three years to increase the liquidity in the market, whether it knows if any measure will be taken to lessen market volatility which may be caused by such high-speed automated trading, so that incidents

similar to the “Flash Crash” in the US last year, which had resulted in the Dow Jones Industrial Average plunging 700 points in a matter of minutes, will not occur in Hong Kong?

聘請外籍家庭傭工

(18) 葉劉淑儀議員 (書面答覆)

現時，港人聘請外籍家庭傭工(“外傭”)的主要渠道是透過外傭中介公司，而中介公司一般會聲稱其介紹的外傭曾接受當地傭工中介機構的家務及／或育嬰訓練以作招徠。然而，不時有市民向本人反映，他們透過中介公司聘用的外傭的資歷，與該等公司的聲稱不符。在該情況下，縱使有關的中介公司願意為僱主更換另一名外傭，僱主仍要繳付替補外傭的簽證費及驗身費等開支，以及給予被解僱的外傭相當於一個月薪金的代通知金及返回原居地的旅費。就此，政府可否告知本會：

- (一) 現時有否法例或措施規管外傭中介公司作出誤導及失實的聲稱；如有，詳情為何；及
- (二) 鑒於現時僱主遇到新聘外傭不稱職的情況，只能按政府規定的標準僱傭合約解僱外傭，而沒有更利便僱主的做法，政府會否考慮在標準僱傭合約中增訂試用期條款；如會，時間表為何；如不會，原因為何？

Employment of foreign domestic workers

(18) Hon Mrs Regina IP LAU Suk-yee (Written Reply)

At present, foreign domestic helper (“FDH”) employment agencies are the major channel through which Hong Kong people employ FDHs, and the employment agencies, in order to attract business, usually claim that the FDHs referred by them have received training in domestic work and/or baby care offered by FDHs’ local employment agencies. However, some members of the public have relayed to me from time to time that the qualifications of the FDHs employed through employment agencies are inconsistent with what the agencies have claimed. Under such circumstances, even if the agency concerned is willing to provide the employer with a replacement FDH, the employer still has to pay for expenses such as the visa fee and medical examination fee for the replacement FDH, and also give the dismissed FDH one month’s wages in lieu of notice and provide the FDH free passage to return to his/her place of origin. In this connection, will the Government inform this Council:

- (a) whether any legislation or measure is in place at present to regulate the making of misleading and false claims by FDH employment agencies; if so, of the details; and
- (b) in view of the fact that at present, in case an employer find his newly employed FDH incompetent, the employer may only dismiss the FDH in accordance with the Standard Employment Contract (“SEC”) provided by the Government, and there is no other more convenient way for the employers, whether the Government will consider providing a probation period in SEC; if it will, of the timetable; if not, the reasons for that?

有關新移民領取福利的統計資料

(19) 張國柱議員 (書面答覆)

現時內地人士可以“家庭團聚”為理由，向其內地當局申領《前往港澳通行證》(“單程證”)來港定居。目前單程證的配額為每日150個。鑒於近日有報道反映不少港人擔心內地新來港定居人士(“新移民”)不斷在港領取福利，會耗盡本港的財政儲備，政府可否告知本會：

- (一) 現時居港未滿7年的新移民人數為何；
- (二) 現時居港未滿7年的新移民當中，獲社會福利署(“社署”)署長酌情發放綜合社會保障援助金(“綜援金”)及體恤安置入住公共房屋的人數分別為何；該等數字佔現時來港未滿7年的新移民總人數的百分比分別為何；
- (三) 第(二)項獲社署署長酌情發放綜援金的受助人平均每人每月獲發的標準金額為何；他們當中有和沒有受薪工作的人數及百分比分別為何；及
- (四) 過去3年，社署署長每年向居港未滿7年的新移民酌情發放綜援金所涉及的開支總額為何；該等金額相當於該年本港的財政儲備的百分比為何；當局有否預計有關的開支會否耗盡本港的財政儲備；如預計會，將於多少年後發生？

Statistics on new immigrants receiving welfare benefits

(19) Hon CHEUNG Kwok-che (Written Reply)

At present, mainland people may apply to the mainland authorities for a Permit for Proceeding to Hong Kong and Macao (“One-way Permit” or “OWP”) to settle in Hong Kong on grounds of “family reunion”. The current daily OWP quota is 150. Recently, it has been reported that quite a number of Hong Kong people are worried that the fiscal reserves of Hong Kong may be exhausted by the people who have arrived and settled in Hong Kong (“new immigrants”) continuously receiving welfare benefits in Hong Kong. In this connection, will the Government inform this Council:

- (a) of the current number of new immigrants who have resided in Hong Kong for less than seven years;
- (b) among the new immigrants who have resided in Hong Kong for less than seven years at present, of the respective numbers of those who have been granted Comprehensive Social Security Assistance (“CSSA”) at the discretion of the Director of Social Welfare (“DSW”), and those who have been allocated public rental housing flats through compassionate rehousing by DSW; the percentage of such numbers in the total number of new immigrants who have resided in Hong Kong for less than seven years at present;
- (c) of the average monthly standard rate for each recipient in (b) who has been granted CSSA at DSW’s discretion; and among these CSSA recipients, the respective numbers and percentages of those who have and those who do not have paid jobs; and
- (d) of the total expenditure incurred in each of the past three years on granting CSSA payments to new immigrants who had resided in Hong Kong

for less than seven years; the percentages of such payments in relation to the fiscal reserves in the respective years; whether the authorities have estimated if the relevant expenditure will exhaust our fiscal reserves; if the fiscal reserves will be exhausted, in how many years this will happen?

提供社區設施

(20) 李永達議員 (書面答覆)

政府在規劃各幅土地的使用及建設社區設施時，會參照《香港規劃標準與準則》(“《準則》”)。《準則》建議每1 000名3至6歲以下幼童設760個半日制和210個全日制幼兒班與幼稚園學額，每25.5名6-11歲兒童設一個全日制小學課室，每40名12-17歲青少年設一個全日制中學課室；另外，每12 000名6至24歲的兒童／青年設一間綜合青少年服務中心，每100 000至150 000人設一間綜合家庭服務中心，以及每100 000人設一間普通科診療所／健康中心等。就此，政府可否告知本會：

- (一) 當局在制訂《準則》時，有否考慮性別觀點主流化的有關原則；如有，考慮了哪些原則，以及制訂了哪些相關標準；如否，原因為何；
- (二) 關於供女性使用的母嬰健康院、婦女健康中心及提供暫託幼兒服務的幼兒中心，現時在各18個地方行政區分別有多少個這類社區設施，以及女性及幼兒的服務名額；
- (三) 就第(二)項提及的社區設施，當局有否訂定任何規劃準則和標準，例如母嬰健康院及婦女健康中心與女性人口的比例；如有，有關的規劃準則和標準為何；如否，原因為何；當局是否知悉國內及海外規劃這些社區設施的相關準則及標準為何；

- (四) 現時各18個地方行政區分別有多少名25歲或以上的女性(按年齡以5歲為一組，分列各年齡組別的人數)；
- (五) 現時各18個地方行政區分別有多少名25歲或以上的已婚女性(按年齡以5歲為一組，分列各年齡組別的人數)；
- (六) 現時各18個地方行政區分別有多少名0至3歲的嬰幼兒；
- (七) 現時各18個地方行政區分別有多少個住戶的家庭入息少於其相應的住戶人數的家庭入息中位數；當中有多少個住戶育有3歲以下的嬰幼兒；當局會否考慮在有較多貧困家庭和有較多暫託幼兒服務需要的地區，設置更多服務該區的暫託幼兒服務中心，或在該區提供更多暫託幼兒服務；及
- (八) 現有的設施是否符合每100 000至150 000人設一間綜合家庭服務中心的標準，現時各區的綜合家庭服務中心分別服務的人數？

Provision of community facilities

(20) Hon LEE Wing-tat (Written Reply)

The Government will make reference to the Hong Kong Planning Standards and Guidelines (“HKPSG”) when it plans for the use of various land sites and the construction of community facilities. HKPSG recommend the provision of 760 half-day and 210 full-day places of nursery classes and kindergartens for every 1 000 children in the age group of three to under six, one whole-day primary school classroom for every 25.5 children in the six to 11 age group, one whole-day secondary school classroom for every 40 young persons in the 12 to 17 age group; and also, one Integrated Children and Youth Services Centre should be provided for every 12 000 children/young persons in the six to 24 age group, one Integrated Family Service Centre for every 100 000 to 150 000 persons and one General Clinic/Health Centre for every 100 000 persons. In this connection, will the Government inform this Council:

- (a) whether the authorities have considered the relevant principles of gender mainstreaming in formulating HKPSG; if they have, of the principles considered and the relevant standards formulated; if not, the reasons for that;
- (b) regarding Maternal and Child Health Centres and Woman Health Centres, which provide services to women, as well as Child Care Centres which provide occasional child care service, of the number of these types of community facilities and the respective service quotas available for women and children in each of the 18 local administrative districts;
- (c) whether the authorities have formulated any planning guidelines and standards in respect of the community facilities mentioned in (b), e.g.

the ratio of Maternal and Child Health Centres as well as Woman Health Centres to the female population; if they have, of the relevant planning guidelines and standards; if not, the reasons for that; whether the authorities are aware of the relevant guidelines and standards adopted by the Mainland and overseas countries when planning for these community facilities;

- (d) of the current number of women aged 25 or above in each of the 18 local administrative district (broken down by age group each covering five years);
- (e) of the current number of married women aged 25 or above in each of the 18 local administrative district (broken down by age group each covering five years);
- (f) of the current number of infants and children aged zero to three years in each of the 18 local administrative districts;
- (g) of the current number of households, in each of the 18 local administrative districts, with household income less than the median household income of the corresponding household size; among them, the number of households with infants and children aged below three; whether the authorities will consider setting up more Child Care Centres to provide occasional child care service in districts with a larger number of poor families and a greater need for such service, or enhancing the provision of occasional child care service in these districts; and
- (h) whether the existing facilities meet the standard of providing one Integrated Family Service Centre for every 100 000 to 150 000 persons, and the respective numbers of persons served by

the Integrated Family Service Centres in various districts at present?