OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 July 2013

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

THE HONOURABLE WONG KWOK-HING, B.B.S., M.H.

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

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

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

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

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

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN

MEMBERS ABSENT:

THE HONOURABLE ABRAHAM SHEK LAI-HIM, G.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.

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

THE HONOURABLE CHUNG KWOK-PAN

PUBLIC OFFICERS ATTENDING:

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, G.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

THE HONOURABLE RAYMOND TAM CHI-YUEN, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE EDDIE NG HAK-KIM, S.B.S., J.P.
SECRETARY FOR EDUCATION

DR THE HONOURABLE KO WING-MAN, B.B.S., J.P.
SECRETARY FOR FOOD AND HEALTH

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

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MR ANDY LAU KWOK-CHEONG, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, 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	*L.N. No.*
Waterworks (Amendment) Regulation 2013	121/2013
Designation of Libraries (Amendment) (No. 4) Order 2013	122/2013

Other Papers

No. 115 ─ Clothing Industry Training Authority
Annual Report 2012

No. 116 ─ Sir Robert Black Trust Fund
Report of the Trustee on the Administration of the Fund and financial statements for the year ended 31 March 2013

Committee on Rules of Procedure Progress Report for the period October 2012 to July 2013

Report No. 21/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Trust Law (Amendment) Bill 2013

Report of the Bills Committee on Pesticides (Amendment) Bill 2013

Report of the Panel on Food Safety and Environmental Hygiene 2012-2013

Report of the Panel on Information Technology and Broadcasting 2012-2013

Report of the Panel on Manpower 2012-2013

Report of the Panel on Development 2012-2013

Report of the Panel on Commerce and Industry 2012-2013

Report of the Panel on Public Service 2012-2013

Report of the Panel on Education 2012-2013

Report of the Panel on Housing 2012-2013

Report of the Panel on Welfare Services 2012-2013

Report of the Panel on Environmental Affairs 2012-2013

Report of the Panel on Transport 2012-2013

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mr TAM Yiu-chung will address the Council on the "Committee on Rules of Procedure Progress Report for the period October 2012 to July 2013".

Committee on Rules of Procedure Progress Report for the period October 2012 to July 2013

MR TAM YIU-CHUNG (in Cantonese): President, in my capacity as Chairman of the Committee on Rules of Procedure (the Committee), I submit to this Council the progress report of the Committee for this session. Here, I will briefly report on the work of the Committee during this session.

Firstly, in view of the increase in the number of Members from 60 to 70 in this term of the Legislative Council, the Committee had reviewed the arrangements for Members to address questions to the Government and move motions not intended to have legislative effect at meetings of the Legislative Council.

On the number of questions that may be asked during the Question Time at meetings of the Legislative Council, the Committee, having consulted all Members of the Legislative Council, proposed that at a general meeting of the Legislative Council, the number of written questions should be increased from 14 to 16, whereas the number of oral questions should be maintained at six. For those Council meetings at which only written questions may be asked, the number of written questions should be increased from 20 to 22. The relevant proposed amendment to the Rules of Procedure was passed by the Legislative Council at its meeting on 20 March 2013.

On the provision of slots for moving motions not intended to have legislative effect, the Committee agreed with the proposals made by the Committee on Rules of Procedure in the last term. The Committee agreed that the number of motion debate slots for each regular Council meeting should be maintained at two, and supported the proposed arrangements for the allocation of slots. The amendments to the relevant rules of the House Rules proposed by the Committee were endorsed by the House Committee at its meeting on 23 November 2012.

In this session, the Committee continued to study the rules on the handling of proposed amendments to bills and speeches made by Members in committee of the whole Council, in order to determine whether and how the Rules of Procedure should be amended to deal with filibustering. In the course of the study, the Committee had made reference to the relevant rules and practices of a number of overseas legislatures. The relevant information papers were issued in the form of an open document to all Members for reference in January 2013.

While the Committee considered that there was a need to provide specific procedures to deal with filibustering, it agreed that the subject should first be discussed by Members of various political parties and groupings among themselves, with a view to arriving at a proposal acceptable to the majority of Members. The Committee would follow up this subject at an appropriate time.

The Committee had studied the problem of a number of Members' motions on subsidiary legislation not being able to be dealt with before the expiry of the vetting period due to unfinished preceding business in the last session of the last term of the Legislative Council as well as in this session. In conducting the study, the Committee had considered the "negative vetting procedure" prescribed

in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), the relevant provisions in the Basic Law and the Rules of Procedure governing the order of business at Council meetings, as well as the circumstances surrounding the relevant cases.

Having regard to the respective implications and limitations of the two main options, the Committee considered that the option proposing the amendment of section 34 of Cap. 1 could be further explored while the Administration's views would be sought on this option.

With regard to the procedures of the committees of the Legislative Council, the Committee had completed studies on the following issues:

(1) The role of the Member in charge of a bill in the relevant Bills Committee;

(2) The relevant rule of the House Rules on drawing the attention of the committee chairman to the absence of a quorum during a committee meeting; and

(3) The propriety for the Committee to study the proposed amendments to the procedures of the Finance Committee and its subcommittees.

Lastly, I would like to take this opportunity to thank Members for their support and valuable opinions for the work of the Committee.

Thank you, President.

PRESIDENT (in Cantonese): Mr Alan LEONG will address the Council on the "Report of the Panel on Food Safety and Environmental Hygiene 2012-2013".

Report of the Panel on Food Safety and Environmental Hygiene 2012-2013

MR ALAN LEONG (in Cantonese): President, in my capacity as Chairman of the Panel on Food Safety and Environmental Hygiene (the Panel), I submit the report on the work of the Panel for 2012-2013 and briefly highlight several major items of work of the Panel.

The improvement of the business environment of public markets was high on the agenda of the Panel. The Panel had at the beginning of this session scheduled three meetings in January, April and July 2013 respectively to monitor the Administration's progress in developing proposals on the improvement of the business environment of public markets, the rental adjustment mechanism and the air-conditioning charging policy. The Panel also made two visits with the Secretary for Food and Health to six public markets and received the views of deputations at one meeting to better understand the difficulties faced by the public market stall tenants.

There was a broad consensus among members that unless the business environment of public markets had been substantially improved, there would not be any ready support for any proposal to adjust the rentals of public market stalls. In this regard, the Panel requested the Administration to conduct a comprehensive review of the policy on public markets and urged the Administration to enhance the facilities of markets and their business viability, in order to draw more customers to public markets. In response to these proposals made by the Panel, the Administration undertook to engage a consultant to review the policy, positioning, functions and usage of public markets. The Administration also undertook to keep the Panel informed of the progress made in relation to the review being undertaken and revert to the Panel on the outcome of the consultancy study.

Stabilizing the supply of powdered formula for infants and young children in Hong Kong was another issue of concern to the Panel. In the beginning of this year, many local parents complained that they were unable to buy powdered formula for their babies and young children. Some members agreed that there was a need to step up enforcement efforts against parallel trading activities. Some other members, however, considered that Hong Kong was a free market economy and expressed strong objection to the Administration's proposal to impose export restrictions on powdered formula. Some members took the view that it should be the suppliers' responsibility to ensure a sufficient and stable supply of powdered formula and that the Administration should ensure that the suppliers of powdered formula would effectively improve their supply chain. Members also expressed concern about the enforcement efforts taken by the Customs and Excise Department (C&ED).

At the request of the House Committee, the Panel subsequently followed up the implementation of the Import and Export (General) (Amendment) Regulation 2013 (the Amendment Regulation). Some members were of the

view that the export restrictions on powdered formula should not be made permanent and that the Administration should set a timeline to review the effectiveness of the export restrictions and the necessity to continue to implement the Amendment Regulation. Some members were strongly dissatisfied with the Administration for its refusal to make public the list of powdered formula regulated by the Amendment Regulation compiled by the Food and Health Bureau as well as the enforcement guidelines for the front-line staff of C&ED. Some members urged the Administration to exercise enforcement or prosecutorial discretion when dealing with minor violations of the Amendment Regulation.

The Panel also followed up a number of issues relating to food safety and supply. First, with regard to the follow up measures taken by the Administration on suspected substandard cooking oil (gutter oil), members urged the Government to expeditiously amend the legislation to regulate the carcinogen BaP, so as to guarantee the safe consumption of cooking oil by the public. Members also urged the Administration to expeditiously open up the live cattle wholesale market, in order to bring down the price of fresh beef. Some members urged the Administration to introduce legislation to regulate the labelling of organic products to safeguard consumer interests and introduce a mandatory genetically-modified food labelling scheme to enable consumers to make informed food choices.

The Panel was very concerned about the sustainable development of hawkers. Members generally considered that the policy on hawkers must progress with the times. They requested the Administration to revitalize the hawker market, examine and introduce various measures to enhance the policy on, and the management of, hawkers, allocate vacant on-street fixed hawker pitches to traders' assistants through priority balloting, and expand the scope for this trade, so as to enable hawkers' business to flourish. Members hoped that the Administration would proactively explore the feasibility of developing open-air hawker bazaars in each district to tie in with the promotion focus of the tourism industry without causing nuisance to the residents, in an effort to boost the local community economy.

The Panel attached great importance to issues relating to animal rights and welfare. Some members were strongly dissatisfied with the Administration for handling pet carcasses as solid waste. Members requested that the Administration should consider providing cremation service for pet animals and

allow pet owners to scatter the cremains of their pet animals in the Gardens of Remembrance and at sea. The Panel also examined in detail the legislative proposals to better regulate pet trading. Members put forward various views on strengthening the regulation of pet breeding and the licensing system for the regulation of pet trading. Members hoped that the Government, when drafting the relevant legislative provisions in detail on another occasion, would seriously consider the views of all sides and needs like animal health, in order to draw up a proposal which was able to balance views of all sides, and protect animal health and welfare.

Lastly, I wish to take this opportunity to express my gratitude for members for supporting the work of the Panel. President, I so submit.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan will address the Council on the "Report of the Panel on Manpower 2012-2013".

Report of the Panel on Manpower 2012-2013

MR LEE CHEUK-YAN (in Cantonese): President, in my capacity as Chairman of the Panel on Manpower (the Panel), I submit to the Legislative Council the report of the Panel for this session. As the work of the Panel has already been detailed in the report, I will only give an account of the highlight of several major areas of work of the Panel here.

After the enactment of the Minimum Wage Ordinance by this Council in 2011, the Panel has been monitoring closely the implementation of the statutory minimum wage (SMW) and the recommended rate of adjustment in SMW. Some members were of the view that a significant increase in the SMW rate would have adverse impact on the business environment. However, some other members considered that the SMW rate should be reviewed once every year to ensure that low income employees' purchasing power would not be eroded by inflation. The Administration advised that the Minimum Wage Commission would consider a basket of indicators and review the SMW rate at least once every two years in accordance with the law.

Moreover, the Administration had provided top-up payments to government service contractors in 2011-2012 to cover the increase in wage costs arising directly from the implementation of SMW. Some members were concerned whether the Administration would provide top-up payments again to such contracts upon adjustments of the SMW rate in May this year. The Administration stressed that as many government service contractors were not able to capture the impact of SMW on their contract prices when offering bids at the tendering stage, the top-up arrangement was intended as a one-off and exceptional measure.

President, the Panel was very concerned about the progress of legislating for standard working hours. Members noted that the Standard Working Hours Committee was formed in April this year, and they were highly concerned about how the Committee would follow up the subject of introducing standard working hours. At the request of the Panel, the Administration undertook to keep the Panel posted of the work plan and work progress of the Committee.

In respect of the protection of employees' interests, members generally welcomed the Administration's proposal to legislate for the provision by employers of three days' paternity leave for male employees. Some members opined that the Administration should consider extending the duration of statutory paternity leave to five days and male employees should be entitled to full pay. The Administration advised that the relevant legislative proposal was only the statutory minimum standard and it would expeditiously introduce a bill into the Legislative Council in the 2013-2014 legislative session.

Members were also concerned about the definition of continuous contract under the Employment Ordinance. The Panel repeatedly pointed out that some employers adopted odd pattern of hours of work or reducing the working hours of their part-time employees to less than 18 hours per week in order to evade their responsibilities to provide part-time employees with employment benefits. Members called on the Administration to finish the review expeditiously and remove or relax the definition of continuous contract for the purpose of extending the rights and benefits of continuous contract employees under the Employment Ordinance to employees engaged under employment contracts with short duration or working hours.

President, I so submit.

PRESIDENT (in Cantonese): Dr LAU Wong-fat will address the Council on the "Report of the Panel on Development 2012-2013".

Report of the Panel on Development 2012-2013

DR LAU WONG-FAT (in Cantonese): President, in my capacity as Chairman of the Panel on Development (the Panel), I submit to the Legislative Council the report of the Panel for the 2012-2013 session. I will highlight several major areas of work of the Panel.

In this session, one of the major focuses of the Panel's discussion was the initiatives to increase land supply for private and public housing to meet pressing public demand for housing. The Panel generally welcomed the Government's introduction of a series of short, medium and long-term measures relating to housing and land supply to speed up land supply for the development of housing and increasing the land reserve in the future. Members stressed that in developing land for the provision of housing, the Administration had to watch carefully the impact of the projects concerned on the natural environment and local residents and formulate a long-term population policy for Hong Kong expeditiously as the basis for land development and housing planning.

The Panel held a special meeting to receive views from deputations and the general public on the Government's proposal of reclamation outside Victoria Harbour and rock cavern development to increase land supply. Noting that some deputations worried about the impact of the reclamation on marine ecology and the natural environment, and the pressure on the traffic and community facilities arising from population growth in the relevant districts, members urged the Government to consider the views of all sides carefully.

The Administration reported to the Panel the progress of the North East New Territories New Development Areas Planning and Engineering Study. The Panel held two special meetings to receive views from deputations and individuals. Members expressed their views and concern over the purpose of the plan, the impact on local agricultural development and residents' living, and the development approach.

Regarding the "Energizing Kowloon East" initiative, the Panel supported the longer-term set-up of the Energizing Kowloon East Office proposed by the

Government to oversee the transformation of Kowloon East into an alternative core business district. Members noted that there were more than 500 establishments operating cultural and creative workshops in Kowloon East. Some members requested the authorities to approach arts and cultural establishments operating in the region to assess the impact of the transformation of Kowloon East on their operation and assist them in continuing with their operation in the region.

Building safety was a major and long-standing concern of the Panel. In this year, the Panel discussed the enforcement strategy on unauthorized building works with the Administration. Members were especially concerned about whether the authorities had adopted double standards in handling the unauthorized building works found in the properties of the Chief Executive at the Peak and those found in the residence of Mr Henry TANG, a former Chief Executive candidate, in Kowloon Tong.

In respect of signboard control, the Panel generally welcomed the Administration's proposal to introduce a control system to allow the continued use of certain existing unauthorized signboards of specific types and sizes after safety inspection, strengthening and certification by qualified persons. Members urged the Administration to strengthen its manpower resources and work out a clearance action plan to take more effective enforcement actions against unauthorized signboards.

As regards heritage conservation, the Panel listened to the Government's annual briefing on its work in this aspect and discussed the policy on the preservation of historical remains discovered at works sites. Members expressed their views on the consultancy study about the establishment of a heritage trust and requested the authorities to enhance the notification mechanism for archaeological discoveries.

In this session, the Panel also discussed with the Administration a case of sale of hotel rooms by a developer and the policy concerned. Members were concerned about how the authorities would handle the problems of the buyers using the hotel rooms for residential use and their being not fully aware of their rights and obligations as the owners of the hotel rooms.

Regarding the works projects, the Panel continued to monitor the progress of the works at Liantang/Heung Yuen Wai Boundary Control Point and Kai Tak Development, supported the planning and engineering study for housing sites in

Yuen Long South and the planning study on the future land use of the Anderson Road Quarry and the Ex-Lamma Quarry, and put forward various suggestions.

The details of the work of the Panel in other areas are already set out in the report, so I will not give a detailed account here. I so submit. Thank you, President.

PRESIDENT (in Cantonese): Mrs Regina IP will address the Council on the "Report of the Panel on Public Service 2012-2013".

Report of the Panel on Public Service 2012-2013

MRS REGINA IP (in Cantonese): In my capacity as Chairman of the Panel on Public Service, I now submit the work report for this year and highlight a number of important areas of work.

Given that the projected number of retiring civil servants would significantly increase in the next 10 years and nearly 70% of the serving directorate civil servants were in the age group of 50 to 59, the Panel was gravely concerned about the succession problems in the Civil Service. Some members suggested that the Administration should consider extending the retirement age of civil servants. The Administration advised that a number of measures had been put in place to assist various departments in making early planning for succession and providing appropriate training. The Civil Service Bureau was conducting a study to assess the retirement situation in the Civil Service and would explore possible options to address succession problems in the long term. The study was expected to be completed by early 2014.

The Panel continued to closely follow up the employment of Non-Civil Service Contract ("NCSC") staff and the use of agency workers, and received views from the relevant organizations. The Panel noted that in 2012, various departments have employed a total of some 14 000 NCSC staff and about 1 100 agency workers. Panel members urged the Administration to devise a policy to further reduce such staff and convert those with long continuous service to civil servants. The Administration pointed out that given the unique operational needs of some departments, there was a need to employ NCSC staff to complement the civil service workforce. The Civil Service Bureau would continue to review with individual departments their employment of NCSC staff,

and would seek to replace NCSC positions with civil service posts where appropriate.

Regarding civil service pay, the Panel noted from the findings of the 2012 Starting Salaries Survey that the existing benchmark entry pays of most Qualification Groups of the Civil Service closely reflected the market pay levels. The authorities accepted the Standing Commission on Civil Service Salaries and Conditions of Service's recommendation that the *status quo* be maintained for the benchmark pays for all civil service grades.

Concerning the 2013-2014 civil service pay adjustment, the Panel had received views from the relevant civil servants' associations, and expressed various concerns and opinions on the Government's pay adjustment and the relevant decision-making process. The Panel urged the Administration to review the existing pay trend adjustment mechanism as early as possible, and maintain close communication with various civil servants' associations in the course of the review.

With regard to the medical benefits for civil service eligible persons, the Panel was very disappointed to note that the authorities had not included Chinese medicine in the scope of civil service medical benefits. There were suggestions that the Administration should consider setting up a Chinese medicine clinic under the Department of Health for the exclusive use of civil service eligible persons, or devising a mechanism for reimbursement of medical expenses incurred in soliciting Chinese medicine service. The Panel passed a motion urging the Government to review the practice of not providing Chinese medicine service for the Civil Service. The Administration advised that it would keep in view the developments in the nature and mode of service delivery of Chinese medicine clinics in the future before reconsidering including Chinese medicine in the scope of civil service medical benefits.

The Panel expressed concern about the measures of the Administration to assist persons with disabilities and ethnic minorities in applying for government jobs. Panel members in general considered that the Government should take proactive measures to increase the employment of these people. The Panel noted that according to the guidelines issued by the Civil Service Bureau, an appropriate degree of preference might be given to candidates with disabilities found suitable for appointment by placing them ahead of able-bodied candidates whose suitability for appointment was considered comparable to the former.

Furthermore, to enable the Administration to provide public services more effectively to the ethnic minority communities and foster racial harmony, members suggested that the Government should appropriately relax the Chinese language proficiency requirements for some grades, with a view to employing more ethnic minorities to serve in the Government.

President, a full account on the work of the Panel is already given in the written report. I so submit.

PRESIDENT (in Cantonese): Dr LAM Tai-fai will address the Council on the "Report of the Panel on Education 2012-2013".

Report of the Panel on Education 2012-2013

DR LAM TAI-FAI (in Cantonese): President, in my capacity as Chairman of the Panel on Education, I report the Panel's work during the 2012-2013 legislative session. As a full account on the work of the Panel is already given in the written report, I am going to highlight the following important areas of work.

Firstly, the Panel was gravely concerned about the impact of the decline in Secondary One (S1) students on the development and stability of the education sector and the teaching force. Panel members had reviewed the authorities' targeted measures and urged them to seriously consider the "3-2-1 proposal" advocated by the sector to reduce the number of students allocated to each S1 class progressively in the following three years, and to maintain dialogue with stakeholders. Some members and deputations even opined that the authorities should seize the opportunity of the decline in S1 student population to implement small class teaching in secondary schools. The Panel subsequently passed a motion by a vote of nine to four urging the authorities to immediately reduce the class size of secondary schools, and to progressively implement small class teaching in secondary schools. In late November 2012, the authorities announced that a district- and school-based approach would be adopted to progressively reduce the number of students allocated each year. The Panel would continue to keep in view the allocation of S1 in 2013.

Another key issue is free kindergarten education. Panel members had received extensive views from over 130 deputations and agreed that the authorities should implement free kindergarten education without further delay.

Some members worried that the establishment by the authorities of a committee to look into the matter was in fact a delay tactic. The authorities affirmed that the provision of practicable 15-year free education and better quality kindergarten education was one of the priorities of the current-term Government. If the Committee on Free Kindergarten Education puts forward any measure during its two years of work, the authorities would consider implementing it on a pilot basis. The Panel would closely monitor the relevant developments.

The Panel agreed that the provision of quality education is dependent on a professional and stable teaching force, thus it has expressed serious concern about the fact that many teachers were employed on time-limited contracts and do not belong to the regular establishment. Panel members urged the authorities to squarely address the heavy workload and pressure on teachers under the New Academic Structure and the New Senior Secondary curriculum, and improve the prevailing class-to-teacher ratios of junior and senior secondary classes. Motions were also passed by the Panel urging the authorities to expeditiously review how to improve the teaching establishment and to revert to the Panel.

On higher education, the Panel was deeply concerned about the development and regulation of the self-financing post-secondary sector. In view of the proliferation of self-financing study programmes and the over-enrolment or indiscriminate admission of students by individual institutions, Panel members urged the authorities to establish an independent oversight body for the self-financing sector, and expeditiously implement the recommendation made by the University Grants Committee in 2010 to establish a single quality assurance body for the entire post-secondary system. Furthermore, members urged the authorities to squarely address the problem of inadequate publicly-funded post-secondary places. The Panel also passed a motion to urge for a significant increase in publicly-funded university places and a regulatory regime over the quality and governance of self-financing programmes.

With regard to the use of land for education purposes, the Panel had discussed with the relevant Policy Bureaux and the Hong Kong Baptist University (the HKBU) on the re-zoning of the southern portion of the former campus of the Hong Kong Institute of Vocational Education (Lee Wai Lee) to residential use. Panel members appreciated the justifications put forward by the HKBU for the proposed development of a Chinese medicine teaching hospital at the site. Although the Education Bureau advised that the requirements of the HKBU for academic space and student hostels have been fully met under the

prevailing policy, members considered that the Education Bureau should adopt a proactive and forward-looking approach in procuring land resources for long-term developments. A motion was passed by the Panel to oppose the re-zoning of the land by the authorities, and urge the authorities to retain the site for educational use. Panel members noted that the proposed re-zoning was awaiting consideration by the Town Planning Board.

The Panel held a total of 18 meetings as of early July this year, including seven special meetings to receive views from 320 deputations on various issues. I would like to take this opportunity to thank the various deputations for their active participation and members for their support over the past year. Lastly, I have to extend my special thanks to the Legislative Council Secretariat for their highly efficient and unreserved support.

President, I so submit.

PRESIDENT (in Cantonese): Mr WONG Yuk-man will address the Council on the "Report of the Panel on Information Technology and Broadcasting 2012-2013".

Report of the Panel on Information Technology and Broadcasting 2012-2013

MR WONG YUK-MAN (in Cantonese): President, in my capacity as Chairman of the Panel on Information Technology and Broadcasting (the Panel), I now submit the report of the Panel for the current session, and highlight several major items of work of the Panel.

The Panel followed up issues relating to the discontinuation of broadcasting service by Digital Broadcasting Corporation Hong Kong Limited (DBC). Considering the alleged recordings of DBC meetings circulating on the Internet, some Panel members opined that there was *prima facie* evidence to suggest that the decision of some of the major shareholders against making further investments into DBC was a result of political interference from the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. Some other members considered the matter a dispute among the shareholders and the rumour of political interference pure speculation. A member moved a motion for the appointment of a select committee by the

Legislative Council to inquire into issues relating to the discontinuation of broadcasting service by DBC. While the motion was passed by the Panel, the proposal was not supported by the House Committee. Subsequently, the Panel held a special meeting to receive views from members of the public. On account of public demand, members urged the Administration to strive to facilitate the resumption of broadcasting service by DBC. The Panel was subsequently advised that as DBC's application for transfer of shareholding had been approved by the Communications Authority, DBC had resumed broadcasting service.

The Panel closely followed up the progress of the Administration's processing of the applications for domestic free television (TV) programme service licences, and met with representatives of relevant stakeholders. Members were dissatisfied that the Administration could not provide them with detailed information on the ground of the confidentiality principle of the Executive Council. The Panel subsequently passed a motion to strongly condemn the Government for ignoring the public's right to know and their interests by unreasonably delaying the issuance of domestic free TV programme service licences. Panel members unanimously urged the Chief Executive in Council to make a final decision on the applications as soon as possible.

The Panel also held a special meeting to follow up issues relating to the editorial independence of Radio Television Hong Kong (RTHK), and invited interested parties and members of the public to give views on the subject at the meeting. Members noted that the majority of the deputations and individuals attending the meeting held the view that Roy TANG, Director of Broadcasting (D of B), had interfered with the editorial independence of RTHK, including asking SZE Wing-yuen, the Acting Assistant Director of Broadcasting, to carry out "political missions". Some members surmised that SZE Wing-yuen's refusal to carry out political missions might have resulted in his not getting promoted. Some other members were of the view that there was no concrete evidence to support the relevant allegations. A member moved a motion to invoke the Legislative Council (Powers and Privileges) Ordinance to inquire into the allegations of interference with the editorial independence of RTHK by Roy TANG, D of B, in handling the matter of the promotion of SZE Wing-yuen. While the motion was passed by the Panel, the proposal was not supported by the House Committee.

The Panel also discussed the arrangements for the frequency spectrum in the 1.9 to 2.2 GHz Band upon expiry of the existing frequency assignments for 3G mobile services. Members noted that when conducting the second consultation, the Administration had proposed that the incumbent 3G operators could retain two-thirds of the original 3G spectrum in the relevant frequency band, while the remaining one-third of the 3G spectrum could be re-auctioned by the Administration. Having received views from the relevant stakeholders, the Panel considered that the Administration should appoint an independent consultant expeditiously to conduct a detailed technical assessment on the impact of the above proposal on service quality. The Administration stated that it was following up the matter, and would report to the Panel on the assessment outcome in due course.

The Panel followed up the progress of the implementation of the Internet Learning Support Programme (ILSP). Members requested the Administration to arrange for "district-oriented" promotion to identify the needy families for ILSP, and urged the Administration to explore with the implementers ways to provide more cost-effective services. The Administration advised that a review would be conducted in early 2015 to consider whether ILSP would be implemented continuously. The Administration also undertook to provide the Panel with the relevant information and statistics for assessing and understanding the Internet learning needs among students from low-income families.

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.

President, I so submit.

PRESIDENT (in Cantonese): Mr Vincent FANG will address the Council on the "Report of the Panel on Commerce and Industry 2012-2013".

Report of the Panel on Commerce and Industry 2012-2013

MR VINCENT FANG (in Cantonese): President, in my capacity as Chairman of the Panel on Commerce and Industry (the Panel), I now submit the report on the work of the Panel for the current session, and highlight some of the major work done by the Panel in the past year.

Small and medium enterprises (SMEs) are the bedrock of the local economy. The Panel reviewed the implementation of various SME funding schemes and support measures. Various suggestions made by the industry and the Panel were implemented, including extending the application period for the special concessionary measures under the SME Financing Guarantee Scheme, increasing the funding ceiling under the SME Export Marketing Fund and extending the waiver of annual policy fee by the Hong Kong Export Credit Insurance Corporation. The Panel urged the Administration to explore with lending institutions the possibility of lowering SMEs' interest rates to reduce their loan burden, and to further streamline the application procedures and enhance various support measures in light of industry feedback and market needs, in order to ensure timely assistance to SMEs.

Members also urged the Administration to optimize the use of the $1 billion Dedicated Fund on Branding, Upgrading and Domestic Sales to assist Hong Kong enterprises in developing brands and promoting domestic sales in the Mainland through upgrading and restructuring. Some members suggested that the cumulative funding ceiling of $500,000 per enterprise should be raised, priority be given to help enterprises explore new markets in second- and third-tier Mainland cities, more Design Galleries and "shops-in shop" be set up in the Mainland, and consideration be given to set up show-and-sales centres in major Mainland cities on a long-term basis in order to assist SMEs in the brand-building, promotion and sale of Hong Kong products. The Panel also called on the Administration to step up promotion and publicity, strengthen market intelligence and business matching services for SMEs, and organize more high-level trade missions to the Mainland and emerging markets such as the Association of Southeast Asian Nations, South America, and Africa to help SMEs explore business opportunities there.

Regarding trade and economic relations with the Mainland, members urged the Administration to strive for more market liberalization measures for Hong Kong's service industries, cultural and creative industries, as well as the testing and certification industry under the framework of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), proactively relay the difficulties encountered by Hong Kong business sectors to the relevant departments in the Mainland, and provide targeted assistance to sectors that had encountered relatively more CEPA implementation issues in individual provinces and municipalities. The Panel also supported a series of initiatives to enhance the functions of Hong Kong's Economic and Trade Offices (ETOs) in the

Mainland, including setting up a new ETO and an Immigration Division and enhancing Government-to-Government co-operation, in order to provide timely assistance to Hong Kong residents and enterprises in the Mainland.

Regarding the development of innovation and technology (I&T), the Panel urged the Administration to further cement scientific research and collaboration with the Mainland, provide the necessary hardware and software support for the sustained development of I&T, strengthen collaborations among the Government, industry, academic and research sectors to facilitate the commercialization of research and development (R&D) results, and promote technology transfer to bring about wider social and economic benefits to Hong Kong. Members also stressed the need to instill a stronger innovation culture in the community and develop I&T human resources, so as to strengthen Hong Kong's I&T development. At the request of the Panel, the Administration undertook to comprehensively review the Innovation and Technology Fund and other assistance programmes, and consider extending the funding scope to cover SMEs' in-house R&D projects, in order to encourage the private sector to increase investment in R&D and enhance the effectiveness of R&D. Some members considered that Hong Kong's expenditure on R&D was on the low side, and urged the Administration to map out the timetable for increasing the Government's R&D investment from at 0.72% to 0.8% of Gross Domestic Product, as pledged in the Chief Executive's election manifesto.

Regarding the development of Hong Kong's patent system, the Panel urged the Administration to take forward the implementation of the Original Grant Patent System as soon as possible. The Administration undertook to work out a detailed implementation plan, and the target date for introducing the necessary legislative amendments was in 2015. Members suggested that the Administration should progressively develop Hong Kong's own substantive examination capability, and build up local expertise in drafting and processing patent applications, in order to promote the development of Hong Kong's patent agency services. Members also called on the Administration to proactively take forward Hong Kong's mutual recognition of patents with the Mainland and other jurisdictions, in order to facilitate patent applications. Regarding the development of intellectual property (IP) trading in Hong Kong, members also welcomed the establishment of the Working Group on IP Trading led by the Secretary for Commerce and Economic Development to map out the overall strategies and identify an appropriate support framework to develop Hong Kong into an IP trading hub.

Regarding the research and development of Chinese medicine (CM), members were particularly concerned about the multiple challenges faced by proprietary CM (pCm) manufacturers in becoming Good Manufacturing Practice (GMP)-compliant. Members considered the pCm industry not yet GMP-ready and cautioned against a hasty introduction of mandatory compliance. They also called on the Government to provide support, including revitalizing vacant industrial buildings or considering setting up a CM science and technology park to provide GMP-standard factory premises, in order to help the local pCm industry become GMP-ready.

President, the details of the Panel's work are already clearly set out in the written report. I so submit. Thank you, President.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing will address the Council on the "Report of the Panel on Housing 2012-2013".

Report of the Panel on Housing 2012-2013

MR WONG KWOK-HING (in Cantonese): President, in my capacity as Chairman of the Panel on Housing, I now submit the report on the work of the Panel for the 2012-2013 session and give a brief account of the highlights of the work of the Panel.

As there had been notable increase in both property rents and prices in recent years, more and more people had found it difficult to find suitable flats in the market at prices which they could afford. The Panel discussed the package of 10 short and medium term measures announced by the Chief Executive on 30 August 2012 to expedite the supply of subsidized and private housing. Regarding the measures for increasing the supply of housing land, some members considered it necessary that the Administration should apprise the public of the land supply in the next few years and the land reserve which would be available for development. Some members also requested the Administration to introduce measures against the practice of hoarding land and deferring development by developers.

The views put forward by the other members included: the Administration should use more government sites for public housing production; redevelop aged public rental housing (PRH) estates; expedite the development of potential sites into disposed sites; and introduce administrative measures to expedite the conversion of industrial buildings and land for residential use.

On the production level of PRH, members generally saw the need to expedite and increase PRH production with a view to shortening the average waiting time for the over 200 000 applicants on the Waiting List. Although some members advised the Administration to reinstate rent control, some other members had reservations about the implementation of drastic measures to address the overheated property market or the reinstatement of rent control on account of their implications on the free market economy. Instead, they supported measures which would reduce the housing demand, such as the relaxation of the residence requirements for Old Age Allowance and Comprehensive Social Security Allowance (CSSA), so as to encourage elderly CSSA recipients and retirees to move to the Mainland.

With respect to the Long Term Housing Strategy review, the Panel set up a subcommittee on the Long Term Housing Strategy review to study the methods of increasing housing production to meet the needs of various groups in society and make recommendations on the formulation of Long Term Housing Strategy. The subcommittee has held eight meetings to date and discussed 11 issues.

At the beginning of November 2012, the Panel discussed the scheme of allowing white form buyers to purchase Home Ownership Scheme (HOS) flats with premium not yet paid under the HOS Secondary Market Scheme. Panel members were gravely concerned that the scheme would drive up demand and stimulate speculative activities, and green form buyers would not be able to afford HOS flats in the Secondary Market. The Panel then passed a motion urging the Government to temporarily suspend the scheme and conduct a review afresh so as to avoid pushing up HOS flat prices in the Secondary Market.

On the Public Housing Construction Programme for 2012-2013 to 2016-2017, members noted that in the five-year period, there would be a total PRH production of about 75 000 flats. The Administration would also endeavour to advance the completion of two PRH projects from the second five-year period, involving 3 400 flats, and thus PRH supply would be increased

to 79 000 flats during the period from 2012-2013 to 2016-2017. Members were also advised that the Administration would fast-track the completion schedule for the construction of public housing by shortening the planning and design process from three years to one year. While members welcomed the expedited production of PRH flats, they were concerned about whether sufficient land had been identified to meet the production targets.

While supporting the compressed schedule for public housing projects, members emphasized that given the present shortage of manpower resources in the construction industry, the Administration must ensure that construction safety and building quality must not be compromised, and the fast-track programme must not undermine the public consultation process.

The Panel was concerned that the Shau Kei Wan Mixed Scheme Project developed by the Hong Kong Housing Society (HKHS) would reportedly be put up for sale by the end of 2013 and that the sale prices of the residential units would be very high. Members were extremely dissatisfied that the HKHS after acquiring the site at low cost and displacing affected residents on grounds of urban renewal, would seek to maximize the profits from the project by selling and letting the new flats at full market price nowadays. Members therefore requested the Administration to review the mode of co-operation between the HKHS and the Urban Renewal Authority and the arrangements for implementing similar urban renewal projects, with a view to preventing the recurrence of a similar situation. Members also urged the Administration to review the role and position of the HKHS in the Government's housing policy.

Another issue of concern for the Panel is on the plight of low-income persons living in subdivided flats. Some members made the criticism that the prevalence of subdivided flats arose from the inadequacy in the provision of public housing for low-income persons. Although the Administration was well aware of the problems associated with subdivided flats, it had not taken action to eradicate them on the ground of their value of existence. Members were particularly dissatisfied about the absence of statistics on subdivided flats.

For this reason, the Panel passed a motion this January strongly requesting that the relevant authorities should expeditiously provide the number of households living in subdivided flats in the territory and the number of such flats,

so as to review afresh the public housing production to assist low-income families with flat accommodation as soon as possible; and at the same time, the authorities should eradicate subdivided flats in the long run to protect the interests of flat owners.

At the request of the Panel, the Administration subsequently engaged an independent research organization to conduct a survey. The survey report was submitted and survey findings were reported to the subcommittee under the Panel.

President, the other highlights of the work of the Panel are already set out in the written report. Lastly, I would like to take this opportunity to thank all the Panel members and staff of the Secretariat for their support over the past year.

Thank you.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han will address the Council on the "Report of the Panel on Welfare Services 2012-2013".

Report of the Panel on Welfare Services 2012-2013

MISS CHAN YUEN-HAN (in Cantonese): President, in my capacity as Chairman of the Panel on Welfare Services, I now submit the report on the work of the Panel in 2012-2013.

The Panel held a total of 17 meetings in this session. As the work of the Panel is already set out in detail in the report, I will only highlight the work of the Panel in a number of aspects.

In social welfare planning, members noted that the Administration would no longer adopt a "five-year plan" mechanism and instead an annual platform was provided for consultation and planning for the future development and delivery of welfare services at district level, central level and advisory committees level on a regular basis.

Members considered that the mechanism in the past allowed members to review the plans on a regular basis and was flexible as far as planning was concerned. They expressed grave concern about the lack of systematic and holistic planning for social welfare services. Members called on the Administration to draw up long-term plans having regard to the anticipated demand for welfare services. To facilitate monitoring work, members requested the Administration to brief the Panel every three months on the progress of social welfare planning.

Members also noted that the Administration had set up an inter-departmental working group to review the Disability Allowance (DA). The working group would follow up the issue of allowing people with loss of one limb to apply for DA and related matters. Members were strongly dissatisfied with the absence of a work schedule for the working group and urged the working group to complete its work and make recommendations before July this year. The Panel will follow up the issue.

The Panel was strongly dissatisfied with the tight schedule because the Administration consulted the Panel only one week before the discussion over a funding proposal on an Old Age Living Allowance (OALA) in the Finance Committee (FC). I, on behalf of the Panel, moved a motion to adjourn discussion on the relevant funding proposal at the FC meeting, so as to allow more time for the Panel to deliberate on the proposal. After the motion was passed, the Panel held two meetings to receive views of deputations and meet with the Administration to discuss issues such as the commencement date of the OALA and the income and asset assessment of applicants.

In addition, the Panel appointed two subcommittees to study retirement protection matters and the strategy and measures to tackle domestic violence. The relevant subcommittee will commence its work upon the availability of a vacant slot for subcommittees on policy issues.

President, I wish to take this opportunity to thank members for taking part in the work of the Panel over the past year. I would also like to thank the Secretariat for lending its full support in the face of such a busy workload. I also thank the large number of deputations for coming to this Council and giving their valuable advice on welfare issues in the Panel meetings. I wish to thank all of them.

PRESIDENT (in Cantonese): Ms Cyd HO will address the Council on the "Report of the Panel on Environmental Affairs 2012-2013".

Report of the Panel on Environmental Affairs 2012-2013

MS CYD HO (in Cantonese): President, in my capacity as Chairman of the Panel on Environmental Affairs (the Panel), I submit the report on the work of the Panel for 2012-2013 and briefly highlight several major items of work of the Panel.

The Panel discussed a number of measures proposed by the Administration for improving air quality in this session. With regards to the spending of $10 billion on the phasing out of pre-Euro IV diesel commercial vehicles ("DCVs"), the majority of members were dissatisfied that under the present proposal, the retirement of the newer DCVs would be entitled to a higher level of ex-gratia payment than older and more polluting vehicles. Members were particularly concerned about the impact of the phasing-out programme on the transport trades, in particular the livelihood of "single-vehicle owners". They urged the Administration to consider providing additional financial assistance to the affected "single-vehicle owners". Some members also suggested that a phased approach should be adopted whereby the more polluting pre-Euro II models would be phased out first, to be followed by the retirement of Euro III models. Other members considered that the 15-year service life limit for newly registered DCVs might be too short. Some members also urged the Administration to adopt measures to prevent vehicle suppliers from profiteering under the phasing-out programme.

The Panel was supportive of the Administration's proposal to increase the commitment for one-off grant scheme to encourage early replacement of Euro II DCVs by $120 million. Moreover, a majority of members were supportive of the Administration's proposal of spending $400 million to fully fund the franchised bus companies for the capital costs of retrofitting selective catalytic reduction (SCR) devices for some 1 400 Euro II and III franchised buses, with a view to reducing 14% of the nitrogen oxides (NO_x) emissions of the whole franchised bus fleet. Nevertheless, some members urged the Administration to strengthen the monitoring on the maintenance and performance of retrofitted franchised buses, and to impose penalties for the improper use and maintenance

of SCRs. Some members also demanded the Administration to ensure that the franchised bus companies would not transfer the additional operating cost for retrofitting SCRs to passengers through increases in bus fares.

Marine vessels is the largest source of respirable suspended particulates and NO_x in Hong Kong and the second largest source of sulphur dioxide after power plants, and the emissions of ocean-going vessels (OGVs) while at berth account for about 40% of their total emissions within Hong Kong waters. The Administration therefore launched a three-year incentive scheme in September last year to reduce by half the port facilities and light dues of those OGVs that switch to cleaner fuels while at berth in Hong Kong waters. Members expressed concern about the effectiveness of the voluntary scheme. They opined that legislation should be introduced to mandate the switch to cleaner fuels by OGVs. Yet some other members stressed that mandatory fuel switch at berth, if implemented, should be on a regional basis and be applicable to all other ports within the Pearl River Delta, otherwise the competitiveness of the local logistics industry would be undermined. Recently the Administration advised that it would propose to mandate the fuel switch for OGVs at berth in Hong Kong waters and would seek members' views on the proposal at the Panel meeting on 22 July 2013.

The Administration had sought the Panel's view on its proposal to upgrade the quality of local marine light diesel with a view to reducing emissions from local vessels. While members were supportive of the general principles of the proposal to protect the environment, some members expressed concern about the possible increase in fuel prices if low sulphur diesel was the only kind of vessel fuel that could be used in Hong Kong. A member also suggested that the Administration should consider providing subsidies for ferry operators when implementing the proposal lest the increase in operating cost would be transferred to passengers. Furthermore, some members urged the Administration to conduct more tests on fuel efficiency as well as other engine models. The Panel had invited the public to give views on the Administration's proposal at its 22 July meeting.

Members welcomed the forthcoming introduction of the new Air Quality Health Index with the associated health advice by the Administration to replace

the existing Air Pollution Index. President, I wish to add that the legislation had been passed last week.

On waste management, the Panel had discussed the introduction of the proposed quantity-based municipal solid waste charging in Hong Kong and passed three motions which respectively demanded that, if the Government was to introduce quantity-based waste charging, the rates be lowered concurrently to avoid double levy; a phased and progressive charging approach be adopted and a "free of charge" policy be adopted in the first phase; and on the basis of the "revenue-neutral" principle, the charges so collected be rebated to those users who had succeeded in reducing waste.

The Panel had conducted in-depth discussion on the controversial landfill extension projects and public hearing sessions were held. A majority of members were gravely concerned about the impact of the Southeast New Territories (SENT) Landfill Extension on the environment and residents of Tseung Kwan O (TKO). Members made the criticism that the landfill extension problem stemmed from the poor urban planning of TKO which allowed residential developments to be located in the vicinity of the SENT Landfill, and it was unfair to require TKO residents to bear the consequences of the unsatisfactory progress in the implementation of the Government's waste management strategy. A member also made the criticism that the scale of extension at the Northeast New Territories (NENT) Landfill and the West New Territories (WENT) Landfill was much larger than that of the SENT Landfill, but measures were implemented to reduce the environmental nuisances at the SENT Landfill only, and no such measures were taken at the NENT and WENT Landfills for the benefit of residents of Ta Kwu Ling and Tuen Mun. The member was dissatisfied with the situation. In the end, the Panel passed a motion to object the SENT Landfill Extension project.

A delegation of the Panel comprising 12 Panel members and five non-Panel members undertook an overseas duty visit to Seoul, South Korea in April 2013 to study the city's experience in various aspects of waste management, including waste reduction at source, waste recycling and waste treatment infrastructure. The delegation benefited greatly from this visit. After the visit, we held an exhibition to brief other Legislative Council Members and the media on the achievements of the visit. The exhibition was opened to the public later.

The Panel set up a subcommittee during this session to study issues relating to air, noise and light pollution for better protection of public health. The subcommittee has held nine meetings so far and during three of the meetings, academics from various universities were invited to share their expert views on the questions we were studying. I wish to take this opportunity to thank all academics who took part in the work of the subcommittee.

President, I also wish to take this opportunity to thank members of the Panel and staff of the Legislative Council Secretariat for their endeavours over the past year. Thank you.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam will address the Council on the "Report of the Panel on Transport 2012-2013".

Report of the Panel on Transport 2012-2013

MR CHAN KAM-LAM (in Cantonese): President, in my capacity as Chairman of the Panel on Transport, I submit the work report for the current session and briefly highlight several major items of work of the Panel.

In the current session, the Panel has continued to pay close attention to public transport fares, which affect people's livelihood. The fare adjustment mechanism (FAM) review of the MTR Corporation Limited (MTRCL), a concern of the public, was completed this year. The Panel was briefed by the Administration on the outcome of the review. The Panel noted that under the enhanced FAM formula, the calculation of the Productivity Factor value would be subject to a new, objective and transparent methodology, and an affordability cap would be set for fare adjustment. Under the new service performance arrangement**,** MTRCL should be penalized for serious service disruptions. Proceeds of the fine thus imposed would be used to help finance the "10% Same Day Second Trip Discount" scheme. Furthermore, MTRCL will introduce a mechanism for fare concessions based on its underlying business profit per year, and a number of new monthly passes will also be introduced.

Members had divided views over the results of the review of FAM. Whilst some members welcomed the results because the package of proposals had taken into consideration factors such as the public's affordability by limiting the increase to below the corresponding change in the median monthly household income; the introduction of a penalty mechanism to ensure service performance and the public's call for profit sharing. However, some members considered the magnitude of the new measures too mild and could not create the anticipated impact. Some members urged the Administration and MTRCL to offer greater discount to frequent commuters and to increase the size of the profit sharing scheme.

Regarding bus fares, the Kowloon Motor Bus Company (1933) Limited ("KMB") applied for a fare increase of 8.5% in the session. Members in general were dissatisfied with KMB's fare increase application and considered the proposed fare increase rate of 8.5% excessive. Some members considered that KMB's fare increase application, if approved, would definitely increase the financial burden of the public and lead to a spate of increases in the fares of other public transport services. Moreover, some members made the criticism that KMB had used financial tactics to present financial figures to support its case. Members urged the Administration to review the formula adopted under the fare adjustment arrangement for franchised buses, and considered it necessary to rationalize bus route and optimize resources to avoid bus fare increase. As regards the service performance of KMB, members suggested that the Administration should consider conducting surprise checks on bus frequency and the results be announced to the public. Members also suggested that bus companies should use information technologies to record the bus arrival time at bus stops to facilitate measurement of the lost trip rate. The Panel noted that after consulting the Panel and the Transport Advisory Committee on KMB's application, the Chief Executive-in-Council decided on 19 February 2013 that an overall average fare increase of 4.9% was approved and the new fares to become effective on 17 March 2013. Compared with the fare increase rates applied by KMB, the approved fare increase rates were lowered by over 40%.

The Administration had consulted the Panel regarding the fare adjustment application made by the urban, New Territories and Lantau taxi trades during the session. The majority of members supported the proposal to increase the taxi fare in view of the drop of the real income of drivers and owners owing to an increase in the various cost components and inflation. Some members expressed

grave concern over the speculation of taxi licences. They also freared that the increase in taxi fare might further fuel speculation of the taxi licences and that a rentee-driver might not be able to benefit from the proposed fare increase as it might trigger taxi rental increases by owners. As a result, any income increase that might be derived from the fare adjustments would be offset. Some members opined that the Administration should introduce tiered taxi service and better-equipped taxis could be allowed to charge a higher fare. They also urged the Administration to increase the number of Liquefied Petroleum Gas Refill stations to shorten the waiting time.

During the session, the Panel was consulted by the Administration on the mid-term review of the six major outlying island ferry routes. The Administration proposed the provision of special helping measures (SHMs) for the six major outlying island ferry routes in the next licence period from mid-2014 to mid-2017 to maintain the financial viability of the ferry services and alleviate the burden of fare increases on passengers. Members noted that the Administration proposed to adjust upwards the caps for SHMs from the current $115 million to $191 million in the next licence period. The Panel supported the Administration's policy of using public funds to provide SHMs to maintain the financial viability of ferry services.

As to road traffic management, the Administration briefed the Panel on the proposed measures to improve the traffic distribution among the road harbour crossings (RHC). Some members expressed support to the Administration's proposal to reduce the tolls at the Eastern Harbour Crossing (EHC) and increase the tolls at the Cross Harbour Tunnel (CHT) to divert traffic from CHT to EHC. They, however, showed concern about the sustained effect of the proposed measures. The Administration explained that the proposed measures would effectively reduce traffic congestion at CHT before 2017 and hoped that with the impact of the measures, the non cross-harbour traffic congestion at CHT and EHC would be eased too. The Aministration stated that upon the completion of the Central-Wanchai Bypass in 2017, traffic conditions at RHCs would be further improved. The Panel also passed a motion urging the Government to examine the feasibility of constructing the fourth RHC or a cross-harbour bridge.

President, the other areas of the work of the Panel are already detailed in the written report. I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Measures to Assist Low-income Persons

1. **MR LEE CHEUK-YAN** (in Cantonese): *The Finance Committee of this Council approved at its meeting on 21 June this year the injection of an additional $15 billion into the Community Care Fund (CCF), the main uses of which include the provision of assistance to low-income persons who cannot benefit from the Budget's relief measures (that is, those commonly known as the "N have-nots"). Such assistance programmes are expected to be launched in the second half of this year. In this connection, will the Government inform this Council:*

(a) of the details of the programmes for assisting the "N have-nots" (including the target recipients of assistance, amount of subsidies and implementation date);

(b) given that some "N have-nots", including those low-income persons living in sub-divisions of a flat (commonly known as "sub-divided units") and illegal rooftop structures of industrial buildings, cannot benefit from the "Subsidy for low-income persons who are inadequately housed" programme launched under the CCF last year, whether the authorities will consider including them in the scope of assistance in the new round of assistance programmes; if they will, of the details; if not, the reasons for that; and

(c) whether it will consider providing recurrent funding on an annual basis, so that those programmes for assisting the "N have-nots" can be implemented as regular measures; if it will, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the Community Care Fund (CCF) rolled out the programme from October last year to April this year to provide a one-off subsidy to a number of low-income households. Among other things, beneficiaries should not be receiving

Comprehensive Social Security Assistance (CSSA) and should not own any property in Hong Kong. Their monthly household income and rental payment should also not exceed the specified limits. In addition, they should be renting rooms/cubicles, cocklofts or bed spaces in private housing; or renting bed spaces offered under the Home Affairs Department's Singleton Hostel Programme; or residing in temporary housing; or homeless. The subsidies for one-person households, two-person households and three-or-more-person households are $3,000, $6,000 and $8,000 respectively. The programme has successfully reached out to those commonly known as "N have-nots" (generally refer to low-income persons who do not own any properties, live in public rental housing or receive CSSA). As at the end of June this year, 25 725 households (58 921 persons) have benefited under the programme, and the amount of subsidy involved was about $149.95 million.

In response to Mr LEE's question, my reply is as follows:

(a) The CCF plans to re-launch the programme before the end of this year, which will also cover the elderly beneficiaries under another CCF programme (namely the "Subsidy for low-income elderly tenants in private housing" programme). Under the re-launched programme, the CCF plans to relax the definition of "inadequately housed" to cover as beneficiaries all private housing residents meeting the income and rental limit requirements as well as other eligibility criteria. We will submit the programme proposal (including the eligibility criteria and subsidy amounts) to the Commission on Poverty (CoP) for consideration and approval.

(b) Residents in units of industrial buildings were not included as target beneficiaries under the programme endorsed by the then Steering Committee on the CCF last year, as it was considered that such units were not designed for domestic use, and the Government was determined to take enforcement actions against such units to ensure residents' safety. The eligibility criteria are in line with the Government's policy of taking enforcement actions against the use of industrial buildings for domestic use, and are formulated to avoid indirectly encouraging the public to live in accommodation that does not comply with lawful residential purpose.

Indeed, there are views that tenants in units of industrial buildings should be included as target beneficiaries under the relaunched

programme. The CCF Task Force has already discussed the matter. We will reflect the views in our submission of the programme proposal to the CoP for consideration.

(c) In the light of the Budget's various short-term relief measures, the CCF has launched the programme to provide a one-off subsidy to the "N have-nots" who cannot benefit from such measures. The Government has no plan to incorporate the programme into the regular assistance programme and services. Nevertheless, the experience of implementing the programme will facilitate the Government's consideration of more comprehensive poverty alleviation arrangements.

MR LEE CHEUK-YAN (in Cantonese): *According to the latest statistics, excluding the number of people living in industrial buildings, 170 000 people are currently living in "sub-divided units", yet the programme offers assistance to about 58 000 people only; in other words, more than 100 000 people do not receive any Government assistance. Why can't the authorities provide assistance to these "N have-nots" as well? The Secretary will surely say that the authorities are making improvement. But his main reply reflects that the authorities still discriminate against households living in "sub-divided units" inside industrial buildings.*

May I ask the Secretary what the Government's stance is? If the new measure to be implemented this time is meant to help the "N have-nots", will those households living in "sub-divided units" inside industrial buildings be covered as well? The logic upheld by the authorities previously was very wrong, as it discriminated against such persons. In fact, at present, people living in "sub-divided units" or industrial buildings may also apply for CSSA or public housing, so how come they cannot be eligible for the CCF? Why must the authorities "crucify" these persons and discriminate against them? This is very unreasonable. If the authorities really want to "crucify" them, why don't they simply forbid them to apply for CSSA? I must of course quickly add that I oppose any such actions. I think the Government's existing measures are ungrounded.

So, may I ask the Government whether it will state its stance more clearly this time. I am not asking the Secretary about the CoP's stance. Does the

Government also think that we should help the "N have-nots" living in "sub-divided units" inside industrial buildings?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, when we re-launch the programme later this year, we will relax the original scope of accommodation. Hence, we expect that some 60 000 to 70 000 households with totally 200 000 persons will be benefited.

As for whether people currently living in "sub-divided units" inside industrial buildings will be covered as beneficiaries, as I noted in my main reply just now, some CCF Task Force members did express concern and sympathy for people living in "sub-divided units" inside industrial buildings. But the Government's standpoint is that the living conditions in "sub-divided units" or any partitions inside industrial buildings, whether in terms of construction and fire safety, or practical requirements such as ventilation, environment, lighting, and so on, are unable to meet the statutory requirements of an adequate place of living for people. One of the roles played by the CCF is to make up for the inadequacy of the existing arrangements and come up with innovative methods to care for the needy. We hope that the CoP can identify a solution that can balance the two.

MR CHEUNG KWOK-CHE (in Cantonese): *President, first of all, I need to declare that I am a member of the CCF Task Force.*

The Secretary mentioned just now that "sub-divided units" inside industrial buildings are unlawful and plagued with many safety problems. However, that more than 100 000 people are living in "sub-divided units" inside industrial buildings is a reality which cannot be denied. We will be very unsympathetic if we do not offer these people any assistance for such a reason alone. They live in "sub-divided units" only because private residential rents are exorbitant. As the Government fails to provide adequate public housing units and has abolished rent control years ago, these households have no choice but to live in "sub-divided units" inside industrial building.

In my view, the Government should be held responsible for the present situation to some extent. However, the Government is now taking the result as the cause, saying that it cannot help these households because they are living in unlawful accommodation.

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

MR CHEUNG KWOK-CHE (in Cantonese): *I request the Secretary to convey, in his capacity as the Government's representative, the message we express today. On behalf of households living in "sub-divided units" inside industrial buildings, I beg the Government to urge CoP members to handle these households' requests with compassionate discretion.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the CCF Task Force has indeed reflected this view, pointing out that individual members request that the CCF programme should also cover people living in industrial buildings and provide them with subsidies. Other members, however, hold the strong view that it is a clear policy of the Government to ban the use of industrial buildings for residential purposes. If these households are provided with subsidies, will people be indirectly encouraged to live in industrial buildings? Besides, since the Government must operate according to laws and regulations, we will encounter considerable practical difficulties during the application handling process if we allow people living in unlawful accommodation to lodge applications.

MR CHEUNG KWOK-CHE (in Cantonese): *President, in the case of handing out $6,000, the Government never said anything on what kinds of locations would make any "sub-divided units" unlawful. The Secretary has not answered me whether he will reflect this actual situation to the CoP.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add in response to the Member's request?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I have already mentioned in my main reply that we would truthfully reflect to the CoP the views in these two respects.

MR ALBERT CHAN (in Cantonese): *President, by refusing to provide any subsidy to the tenants of "sub-divided units" inside industrial buildings, the Secretary is in effect "trimming the toes to fit the shoes", denying the neediest people of assistance. The Government may make some technical adjustments, and treat the assistance to these people as living allowances, rather than rental subsidies. That way, the law issue of giving them subsidy for living in unlawful accommodation can be avoided. I hope the Secretary can take this suggestion into consideration.*

President, my supplementary question is about the existing rental subsidy, the adjustment of which the Government is now considering. At present, the relevant expenditure is some $140 million a year. Will the CCF specifically consider setting a three-year or five-year time limit for this programme, so that people living in "sub-divided units" can have greater peace of mind and assurance, as they know that they will be provided with subsidies in the coming few years? The Government also knows very well that the problem of "sub-divided units" is unlikely to see any concrete improvement in the coming three to five years. Since $15 billion should be sufficient to support the programme for some three to five years, will the Secretary consider setting a three-year or five-year time limit for this programme?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the programme is not a rental subsidy programme. The intention of the CCF and the CoP is to reach out to the "N have-nots", as the various relief measures introduced in the Budgets this year and last year are either for people with electricity meters under their names or for public housing tenants or CCSA recipients. In order to reach out to low-income or poor people who do not receive any CSSA, or do not have any electricity meters or public rental housing (commonly known as the "N have-nots"), and because these people cannot benefit from the relief measures of the Budgets, the CCF rolled out the programme to offer a one-off subsidy to them. Since this is a non-recurrent measure rolled out in response to the Budget's relief measures, the Government

does not have any plan to provide the subsidy for three years or five years in a row.

MR FREDERICK FUNG (in Cantonese): *President, the Secretary's reply can prove further that it is wrong for the authorities to refuse to offer subsidy to households living in "sub-divided units" inside industrial buildings. To begin with, as the programme aims to assist the poor, the person himself, rather than his accommodation, should be the target. As long as a person is poor or is one of the "N have-nots", he should be provided with subsidy, regardless of the type of his accommodation. Those living in high-rise apartments or luxury residential buildings and those who are not the "N have-nots" should not be provided with any subsidy. But the location of "sub-divided units" in private residential buildings or inside industrial buildings should not be used as a reason for granting or not granting the subsidy.*

PRESIDENT (in Cantonese): Mr FUNG, please stop making comments. Please state your supplementary question.

MR FREDERICK FUNG (in Cantonese): *President, I am not making any comments. I just wish to point out the Secretary's erroneous logic before stating my supplementary question.*

PRESIDENT (in Cantonese): Please state your supplementary question.

MR FREDERICK FUNG (in Cantonese): *Such a principle is applied in the case of other similar policies. Rooftop structures must be banned, as they are illegal and unauthorized. In the past, squatters were classified as illegal structures, but the households living there were still eligible for CSSA and all other welfare benefits offered by the Government. Traditionally, the poverty alleviation measures of the Government used to focus on the person rather than his accommodation; but now the focus is on the accommodation rather than the person.*

PRESIDENT (in Cantonese): Mr FUNG, please stop making comments.

MR FREDERICK FUNG (in Cantonese): *I just want to ask the Secretary if he can realize the fundamental problem with this policy. What I mean is that he cannot achieve the objective stated in the first sentence of the Secretary's main reply, which is to provide subsidy to low-income persons who are inadequately housed. My supplementary question is: is the Government running counter this objective?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, if the units concerned are rooftop structures, they will be covered in this subsidy programme ……

(Mr Frederick FUNG rose to interrupt)

PRESIDENT (in Cantonese): Mr FUNG, please sit down and stop interrupting the Secretary.

SECRETARY FOR HOME AFFAIRS (in Cantonese): We should not make any generalization, saying that all rooftop structures are unauthorized. We are not yet able to draw such a conclusion at this point of time. However, if any "sub-divided units" or rooftop structures are found in industrial buildings, they are unlawful from the perspectives of both the Government and the relevant legislation.

I have pointed out from the very beginning that when the CCF Task Force discussed the matter, some CCF members already expressed concern and sympathy for the persons living in industrial buildings, and indeed some CCF members did ask whether these persons should also be included as target beneficiaries. However, some other members pointed out that there were practical difficulties, as living in industrial buildings was currently considered unlawful. If the Government should deal with these unlawful cases, there would be considerable restrictions on the legal front, which might in turn hinder our operation. That is why as I mentioned at the beginning, we hope the CoP can come up with some innovative ways to express our concern for these persons on the one hand, and resolve the legal constraint on the other. Or, I even wonder

whether it is possible to roll out other schemes to help these comparatively poor persons living in industrial buildings in case the programme cannot offer them any assistance.

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

MR FREDERICK FUNG (in Cantonese): *The Secretary has not answered my supplementary question. If the Secretary refuses to provide any subsidy to persons living in industrial buildings, he will be unable to achieve the objective referred to in the first sentence of his main reply, which is to provide "subsidy for low-income persons who are inadequately housed". As also mentioned by the Secretary in his reply to Members' supplementary questions, the programme is not a rental subsidy programme. That being the case, whether any rented accommodation is unlawful should be irrelevant.*

PRESIDENT (in Cantonese): Mr FUNG, please stop making comments.

MR FREDERICK FUNG (in Cantonese): *President, the Secretary has not answered this part of my supplementary question.*

PRESIDENT (in Cantonese): Mr FUNG, the Secretary has already given his reply, only that you do not buy his view. Please follow up the matter on other occasions.

MISS CHAN YUEN-HAN (in Cantonese): *"With an ineffectual government, the people cannot live in harmony". In my view, this issue has something to do with the contradiction among government departments. Regarding what the Secretary has said just now, I would like to put a question to him. According to Mrs Carrie LAM, "sub-divided units" do have a point of existence — this is what she has said, but the Secretary is now saying that "sub-divided units" are unlawful. Since the Chief Secretary says that "sub-divided units" do have a point of existence, why doesn't the CCF offer subsidy to the relevant households*

as well? Just now the Secretary replied that this would give rise to some legal problems. If he thinks so, has he considered ways to roll out some other measures to assist these persons, who all deserve our help, and who have been described as impoverished and inadequately housed in CY's Policy Address? The Secretary has kept saying that this is not feasible, but in my view, if we are to have an effectual government, we must establish effective connections among different Policy Bureaux, and between Policy Bureaux and government departments.

PRESIDENT (in Cantonese): Miss CHAN, have you stated your supplementary question?

MISS CHAN YUEN-HAN (in Cantonese): *President, when the Secretary is faced with such a twisted argument which prevents the Government from operating effectively, may I ask him whether he still has the enterprise to make efforts to rectify the situation?. Is the Secretary prepared to do something more than merely writing to the CCF, and present the facts to the CCF directly instead, so as to enable the Government to operate more effectively?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I am afraid Miss CHAN has mixed up two concepts. In fact, the programme rolled out by the CCF last year already aimed to provide subsidy to the households living in "sub-divided units" in private residential buildings. At that time, we pointed out that the target beneficiaries were households living in the subdivisions of a flat, or tenants of "sub-divided units" in practical terms. The programme to be re-launched late this year will also offer subsidy to large numbers of households living in "sub-divided units" in private residential buildings. As for the issue that we cannot resolve, we are forbidden by the law to do anything, and it is the issue of providing subsidy to persons living in industrial buildings. The reason is that industrial buildings are for industrial purposes. Under the laws of Hong Kong, industrial buildings cannot be used for residential purposes. Therefore, the households concerned are not eligible. The existing policy of the Government is to take enforcement actions once it knows of the use of any industrial building for residential purposes. This practice poses a constraint making it impossible for us to provide them with any assistance.

MR POON SIU-PING (in Cantonese): *The authorities have already injected $15 billion into the CCF. I wish to ask the Secretary whether the Government will consider rolling out a programme under the CCF to provide rental allowance for the non-CSSA recipients on the General Waiting List for Public Rental Housing, with a view to narrowing the rental gap between private residential units and public housing units, thereby alleviating these persons' livelihood pressure.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the programme we are re-launching will benefit some applicants on the General Waiting List for Public Rental Housing who are not yet allocated any units. The programme will actually cover some of the waiting applicants. However, if we are to provide rental allowance to all the applicants on the General Waiting List, a separate scheme will be required, and we will need to submit a proposal to the CoP for examination.

DR CHIANG LAI-WAN (in Cantonese): *Just now, Members mentioned the situation of some households living in industrial buildings. This makes me think that we really should carry out some more studies.*

In the new financial year, there is a government injection of more than $10 billion into the CCF. The supplementary question I wish to ask today is: will the authorities consider providing assistance to people with hearing impairment in the local communities, particularly children with hearing impairment, so that they can purchase hearing aids? Also, some persons with disabilities in the local communities have told me that their artificial limbs need to be repaired and adjusted every year, and the costs involved are quite considerable. May I ask the Secretary whether assistance will be provided to such needy persons?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the CCF has so far rolled out 19 programmes. The attitude adopted by the CCF is complete open, and these programmes were rolled out only after listening to the suggestions put forward by people from different social sectors. Since the objective of the CCF is to provide support and assistance to persons who are unable to benefit from the existing social welfare safety net, I believe the CoP and its CCF Task Force will be happy to consider the two suggestions made by Dr CHIANG.

MR MICHAEL TIEN (in Cantonese): *I am sorry, President, I did not know that you would call upon me to ask my supplementary question. First of all, I need to declare that I am a member of the CCF Task Force. The Government has given two reasons for not extending the programme to cover households living in industrial buildings: first, the Government is resolved to ban living in industrial buildings; second, so doing will encourage the public to move into unlawful accommodation. Regarding the first reason, which is to ban living in industrial buildings, the fact is that the Government does not even have the actual number of "sub-divided units" inside industrial buildings, and we simply cannot know how long it will take to formulate a policy ban. But the present situation is so bad that there are no even enough "sub-divided units" in private residential buildings to meet demand. In that case, how can the Government ban the "sub-divided units" inside industrial buildings? These are all people who just cannot afford the rents for other mode of accommodation. That is why I do not believe that the Government will be able to put forward a ban in the near future.*

As regards the second reason, if the Government thinks that the provision of subsidy to such households will encourage them to live in unlawful living places, I must say that the Secretary has never seen their deplorable living environment. Indeed, living in industrial buildings is their last resort before sleeping on the streets. If they can spend a dollar more on rentals, they will not choose to live in such places.

PRESIDENT (in Cantonese): Mr TIEN, this is not a debate session. Please state your supplementary question.

MR MICHAEL TIEN (in Cantonese): *This is the premise of my question. That being the case, why does the Government refuse to consider the provision of subsidy to these households as a provisional measure before a policy ban regarding "sub-divided units" inside industrial buildings is formulated? This is the Community Care Fund, not any "encouragement fund". The Government needs not worry ……*

PRESIDENT (in Cantonese): Mr TIEN, you have stated your supplementary question. Please sit down.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, Mr TIEN has already put this question to the CCF Task Force, and he is well aware of the concern raised by other members of the Task Force. Mr TIEN says that living in "sub-divided units" inside industrial buildings is almost the last resort of these households before sleeping on the street; I can tell him that the programme launched by the CCF is meant precisely to provide subsidy to persons who really sleep on the streets, the homeless in other words. We provide these persons with the relevant subsidy because sleeping on the streets is not unlawful, and we will also provide subsidy to those living in temporary shelters. Regrettably, however, as the persons living in "sub-divided units" inside industrial buildings have breached the provisions of the relevant legislation, we cannot hand out this assistance to them. Perhaps Mr TIEN may put forward better proposals to the CoP again to help us resolve this issue.

(Mr Michael TIEN rose to his feet in an attempt pursue the question with the Secretary for Home Affairs)

PRESIDENT (in Cantonese): Mr TIEN, I cannot allow you to raise any more supplementary questions, because we have spent more than 24 minutes on this question. Second question.

Establishment of a Bruce Lee Memorial Hall

2. **MR WONG KWOK-HING** (in Cantonese): *President, the 20th of July, which is three days later, is the 40th anniversary of Mr Bruce LEE's death. Some members of the public have relayed to me that Mr Bruce LEE, who was an internationally renowned martial arts master, director and actor, has all along been revered by the public. The public also have high aspirations for the establishment of a Bruce LEE memorial hall. While the Leisure and Cultural Services Department will also hold a large-scale exhibition in commemoration of Mr LEE this year, the public have every wish for the early conversion of Mr LEE's former residence in Kowloon Tong (the former residence of Bruce LEE) into a permanent memorial hall. In this connection, will the Government inform this Council:*

(a) whether it has assessed the social values and effects to be brought about by converting the former residence of Bruce LEE into a

permanent memorial hall, as well as the public aspirations for realization of such a proposal; if it has, of the conclusion; if not, the reasons for that;

(b) despite that the authorities had announced two years ago the temporary shelving of the negotiation with the owner of the former residence of Bruce LEE on the conversion of the premises into a Bruce LEE memorial hall, as the press has reported that the owner is still eager to donate that property and hopes for the early establishment of a Bruce LEE memorial hall, whether the authorities will proactively reconsider various possible ways and means to implement the proposal of converting the former residence of Bruce LEE into a Bruce LEE memorial hall; and

(c) as quite a number of members of the public consider that Mr Bruce LEE is a symbol of Hong Kong, of the form, contents and vehicle to be adopted by the Government to convey and pass on the Hong Kong spirit displayed by Mr LEE following the activities organized in commemoration of him this year; if concrete proposals are not available, whether it will actively study the issue and put forth proposals in this regard?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, Mr Bruce LEE, the late film star of international renown, had made tremendous contribution to the development of martial arts culture and cinematic arts. Many people, both locally and outside Hong Kong, are deeply interested in his life story. During the period between 2008 and 2010, the Government held various discussion sessions with the owner of Bruce LEE's former residence in Kowloon Tong on the restoration and conversion of the property into a memorial hall. Unfortunately, despite numerous rounds of discussion, no consensus could be reached with the property owner regarding the scale of restoration works to be carried out. The Government and the property owner eventually considered that staging a themed exhibition on Bruce LEE at the Hong Kong Heritage Museum (HKHM) would be a good way to commemorate and show respect to Mr Bruce LEE. The exhibition will open on 20 July this year for visit by local residents and visitors, and will run for five years.

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

(a) and (b)

In July 2008, the owner of Bruce LEE's former residence in Kowloon Tong indicated to the Commerce and Economic Development Bureau his wish to donate the property for restoration and conversion into a Bruce LEE memorial hall. Having conducted preliminary study and assessment on the restoration proposal, the Hong Kong Tourism Board and relevant government departments considered that the proposal, if materialized, could add a new attraction to Hong Kong. Accordingly, the Government agreed to discuss with the property owner on the restoration proposal. The proposal framework put forward by the property owner included, among other things, changing the land use of the lot where the former residence is located, and constructing three storeys of basement, with one designated for a memorial hall for the property owner's charity foundation, so that the floor area of the property can be expanded significantly from originally around 5 000 sq ft to 30 000 sq ft. Having generally examined the proposal, the relevant government departments considered that it might have long-term impact on the land use and planning restrictions, and so on, in the Kowloon Tong area.

During the period between 2008 and 2010, the Commerce and Economic Development Bureau had conducted numerous rounds of discussion with the property owner on the scale of restoration works to be carried out for the former residence. Despite the Government's strenuous efforts in those two years, no consensus could be reached with the property owner, the crux being that the Government could not agree to the property owner's proposal of constructing three storeys of basement and expanding the floor area greatly at the site. Eventually, in late 2010, both parties considered that it would not be meaningful to drag on the issue, and that staging a themed exhibition at the HKHM would be another desirable way to commemorate and show respect to Mr Bruce LEE. Since there is a big difference in views between the Government and the property owner regarding the scale of the restoration works for the former residence, we have no plan for further discussion with the property

owner on the matter. Neither has the property owner formally approached us regarding the restoration issue since then.

(c) To mark the 40th anniversary of Bruce LEE's death on 20 July, the SAR Government will organize large scale commemorative programmes with the "Bruce LEE: Kung Fu • Art • Life" exhibition held at the HKHM as the highlight. Presented by the Leisure and Cultural Services Department (LCSD), the exhibition will showcase over 600 precious items of Bruce LEE's relics and memorabilia to review the legendary life of Mr LEE in respect of his personal profile, movies, martial arts and cultural phenomenon, and so on. The LCSD has specially scheduled to open the exhibition on this special date of 20 July. The exhibition will run for five years.

Furthermore, to tie in with the exhibition and to enable the public to get a thorough understanding of this legendary figure, the Federation of Hong Kong Filmmakers has produced a 75-minute documentary entitled "The Brilliant Life of Bruce LEE", which will be screened at the HKHM during the exhibition period. Rich in content, this documentary will introduce Bruce LEE's life story, featuring many precious film clips from Bruce LEE's movies produced during his childhood and adulthood in Hong Kong and the United States, home videos, and interviews with people closely associated with him, such as his family members, filming partners, friends and martial arts practitioners, and so on.

To complement the five-year "Bruce LEE: Kung Fu • Art • Life" exhibition, the LCSD will organize a series of education and extension programmes with different themes in phases including lectures, sharing sessions and interactive demonstrations, to explore the life, career and achievements of Bruce LEE from different perspectives.

The Hong Kong Film Archive of the LCSD will also organize related film programmes to tie in with the five-year exhibition. This year, the Film Archive will organize film programmes featuring teenage Bruce LEE and screen a new print of The Way of the Dragon in September and October.

MR WONG KWOK-HING (in Cantonese): *President, parts (a) and (b) of the Secretary's main reply completely fail to answer the focus of my question, that is, whether the authorities will once again actively consider various feasible ways to set up a memorial hall in the former residence of Bruce LEE. The last-term Government failed to achieve anything in this regard. It could not do anything to save the Sunbeam Theatre, for example. But in the end, LEUNG Chun-ying stepped in and managed to rescue the theatre.*

Therefore, may I ask the authorities whether the current-term Government will reconsider the proposal to build a memorial hall in the former residence of Bruce LEE, so as to realize the aspiration of the public? Will it try again? For example, will the Government once again put all the relevant problems before the Panel concerned for further discussion, and invite the owner of Bruce LEE's former residence to this Council to have fresh negotiations with us? I put forward this proposal because the information provided by the Secretary in parts (a) and (b) of the main reply earlier has never been disclosed to this Council. Thus, may I ask the Secretary whether the current-term Government will re-consider various feasible ways to build the Bruce LEE memorial hall?

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Commerce and Economic Development, please reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, during the period between 2008 and 2010, the previous two Secretaries for Commerce and Economic Development made many attempts to approach the owner of Bruce LEE's former residence many times on this matter. Although we are very eager to materialize the proposal and I am a fan of Bruce LEE myself, we must still respect the requests of the owner of Bruce LEE's former residence, particularly his insistence on constructing a three-storey basement, with one designated for a memorial hall for his charity foundation.

Furthermore, the floor area of this property has already reached the maximum plot ratio. Therefore, the owner's insistence on expanding the floor area from 5 000 sq ft to 30 000 sq ft will involve a number of factors which the authorities must consider. In particular, the requested floor area expansion may have implications on the maximum plot ratio permissible for the district in the Outline Zoning Plan, or on other developments in respect of density, height and

land use, thereby undermining the characteristics and integrity of development in the area.

We must carefully consider all factors because we do not wish to set a bad precedent. Thus, when vetting and approving the relevant proposal, we must consider whether the additional demand thus generated will render the support facilities in the area, such as transportation and public facilities, unable to cope. Actually, during our contacts with the owner, we also hoped that we could come up with a consensus which could meet the planning needs of the area. I guess Mr WONG may also note that the winning entries in the Ideas Competition for Bruce LEE's Residence also propose the construction of one storey of basement, and are able to fully meet the owner's hope of building an exhibition hall, an audio-visual room, a kung fu corner and a library. We already discussed various feasible options with the owner as far as possible. But regrettably, we still failed to reach a consensus in the end. We are therefore very delighted to learn that the HKHM has organized an exhibition and successfully put together more than 600 items of Bruce LEE's relics for the public to see and commemorate this legendary figure of Hong Kong.

PRESIDENT (in Cantonese): Mr WONG, what is your question?

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered me whether he will once again put this issue before the relevant Panel for discussion following his further consideration, and whether the owner will also be invited to participate in the discussion. He has not answered this supplementary question.*

PRESIDENT (in Cantonese): Secretary, please answer briefly whether you will once again put the matter before the relevant Panel and invite the owner to join the discussion.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as I have mentioned in the main reply, the owner of Bruce LEE's former residence insists on certain requirements and we are unable to meet his requests. Therefore, no further progress can be made on the establishment of a memorial hall in Bruce LEE's former residence at this stage.

MR MA FUNG-KWOK (in Cantonese): *President, the sector is actually very concerned about this matter, so are people from the film or television industry. They all hope that a Bruce LEE memorial hall can be established. And, generally speaking, the ideal venue of the memorial hall is the land or place that is directly related to the person concerned.*

What I want to follow up are the major factors causing the hurdles that occurred in the discussions between the authorities and the owner. Does the owner want to operate the memorial hall on his own? Or, does he want the Government or other organizations to take charge of the operation? I believe there is a difference between the two. Can the Government specify more clearly? If the owner wants to operate the memorial hall on his own name, he can always do so now. All the Government needs to do is some sort of co-ordination in respect of transportation arrangements or other planning, for example. The Government is certainly capable of doing so. May I ask the Secretary whether the authorities have ever explored the feasibility of other ideas, such as building a temporary structure as an extension of the mansion, or applying for a provisional licence? Is this possible? I hope that the Government will give a response.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as I have clearly explained in the main reply, the main reason for our inability to meet the owner's requests is that the owner wants to construct three storeys of basement and expand the floor area from 5 000 sq ft to 30 000 sq ft, with one storey designated for a memorial hall for his charity foundation. Also, the owner also requests that upon completion of the restoration works, the Government shall take charge of the management of Bruce LEE's former residence.

MR YIU SI-WING (in Cantonese): *President, since the Government is going to organize a large-scale exhibition on Bruce LEE lasting as long as five years, has the Government ever assessed the impact of this exhibition on the tourism industry and its admission volumes of overseas visitors?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): This exhibition is organized by the LCSD and according to its past experiences, the number of visits

may be more than 1.3 million in the first two years of the exhibition, and I trust that a substantial part of this will be overseas visitors.

PRESIDENT (in Cantonese): Mr YIU, what is your question?

MR YIU SI-WING (in Cantonese): *The Secretary has not answered my supplementary question. I have asked whether he has ever assessed the impact of this exhibition on the tourism industry and the admission volumes of overseas visitors, but he has only mentioned the overall number of visits without responding to the part of the supplementary question on assessment.*

PRESIDENT (in Cantonese): Which Secretary will make additional comments? Secretary for Commerce and Economic Development, please go ahead.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, it is difficult for us to compile the statistics requested by the Honourable Member. As Secretary TSANG has pointed out, since this exhibition is the first of its kind in Hong Kong, there is no precedent to go by. However, we estimate that the first two years of an exhibition will usually record 1.34 million visits, and every year thereafter, there will be around 400 000 visits. Also, the Hong Kong Tourism Board will launch overseas publicity. Yet, it is unlikely that visitors will come to Hong Kong solely for this exhibition on Bruce LEE. However, I do believe generally, this exhibition will promote the development of the tourism industry.

MISS CHAN YUEN-HAN (in Cantonese): *President, some friends of mine are also very concerned about the establishment of a Bruce LEE memorial hall, particularly those who were once members of the Urban Council, such as LAM Man-fai. They have been promoting the cause in the community, hoping that the Government can establish a Bruce LEE memorial hall in Hong Kong because Bruce LEE is internationally renowned, and many people are eager to see his relics. The establishment of a Bruce LEE memorial hall is something very good, not only to the fans of Bruce LEE, but also to the development of the local tourism industry.*

I also took part in the relevant discussions, and I agree to the Secretary's earlier remark that it is actually rather difficult for us to accede to certain requests of the owner. But I also think that we may as well leave the community to discuss his requests. If the community accedes to the owner's requests …… We of course have no idea about all the arrangements concerning the owner's request for an additional storey of basement for displaying other exhibits and the ownership of the property in that case ……

PRESIDENT (in Cantonese): Please state your supplementary question.

MISS CHAN YUEN-HAN (in Cantonese): *President, I must first explain this point before I ask the Government to consider the following proposal. Since so many people wish to establish a Bruce LEE memorial hall and the Government now plans to designate Tai Hom Village opposite Hollywood Plaza, a popular film-shooting location in the past, for developing cultural and creative activities like the film industry, the Government may consider the establishment of a Bruce LEE memorial hall on the 7.2-hectare site of Tai Hom Village, and use this bright spot of the film industry in the past as the focus of the area. In my opinion, apart from bringing positive effects to the area, this can also facilitate the development of certain important places such as a "Mini Hollywood" in the future. May I ask the Secretary whether he has any such ideas?*

PRESIDENT (in Cantonese): Miss CHAN, please be seated. Which Secretary will reply? Secretary for Commerce and Economic Development, please reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I am very thankful to Miss CHAN's views. I have been to Tai Hom Village together with Miss CHAN for on-site inspection, and I thus know that many enterprises engaging in creative industries have already clustered around Tai Hom Village adjacent to Kowloon East.

Regarding the land use planning of the Diamond Hill Comprehensive Development Area (CDA), we understand that the Planning Department already consulted the Wong Tai Sin District Council and local residents early this year, and the department will consider the proposals and views collected during the

planning process. If any future discussion on the CDA falls under the portfolio of my Bureau, we will certainly examine the relevant proposal from various perspectives, including Miss CHAN's earlier suggestion on establishing a Bruce LEE memorial hall there.

Let me also add a few words on one of the three storeys of basement extension in Bruce LEE's former residence. It is not intended for displaying exhibits. Rather, the owner requests to use it for a memorial hall for his charity foundation.

MR PAUL TSE (in Cantonese): *President, historical relics can in fact be displayed anywhere in Hong Kong, just like the case of exhibitions, which can be held in any museums in Hong Kong. Nonetheless, there can only be one Bruce LEE's former residence throughout the territory. This Saturday, a group of enthusiasts will kick off the Bruce LEE Way, which will show visitors the school Bruce LEE went to and the things he did. Anything about him, even a single photograph and a mere name tag, will be displayed. And, this is precisely where the importance of this memorial trail lies.*

President, if a person is determined to do something, he will always make it somehow. If a person does not want to take a certain course of action, he can always come up with various excuses. Therefore, if we are determined to establish a memorial hall, we will somehow manage to work it out even though we must make special efforts to dig deeper into the ground. Conversely, if we want to lay the blame on transport and other problems, it is likewise possible for us to do so. Seeing how this issue has been brought into the limelight again, I wish to ask the Secretary to tell us again whether he will reconsider the matter.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, we are of the view that the difficulties in acceding to the requests put forward by the owner of Bruce LEE's former residence are insurmountable at this stage. We therefore hope that in case the owner holds any further discussions with us, he will stop insisting on such requests as designating a memorial hall for his charity foundation and a significant increase in the floor area. The reason is that such requests will have significant impact

on the overall planning of the area, and we must thus take account of the overall situation.

Speaking of the Bruce LEE Way which Mr TSE mentioned just now, I must say we have also provided our support. The organization concerned is called the Bruce Lee Club, which was allocated a sum of $1.04 million from the Film Development Fund in June 2012 to take forward the Bruce LEE Way project. I must therefore say that we have long been co-operating fully with various organizations in the community, in a bid to spread the legend, the legend of Mr Bruce LEE.

MR WONG KWOK-HING (in Cantonese): *President, I am grateful to you for allowing me to ask another supplementary question. When Secretary TSANG and Secretary SO were Secretaries of the last-term Government, they both asserted that the Sunbeam Theatre could not be retained and must be demolished. But fortunately, with CY's intervention, the landlord reduced the rent by half, thus saving the Sunbeam Theatre. The last-term Government similarly failed to resolve the problem of establishing a memorial hall in Bruce LEE's former residence. Therefore, my supplementary question is: in view of the previous case of the Sunbeam Theatre, will the two Secretaries report to Chief Executive LEUNG Chun-ying to see if he can offer some help and mediation on this present problem, which both of them are unable to resolve?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Commerce and Economic Development, please reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I have already clearly explained the position of the Government just now and I do not have anything to add.

PRESIDENT (in Cantonese): This Council has spent more than 22 minutes 30 seconds on this question. Third question.

Number of Graduates of Post-secondary Programmes and Their Employment Prospects

3. **MRS REGINA IP** (in Cantonese): *President, regarding the number of graduates of post-secondary programmes in the coming few years and their employment prospects, will the Government inform this Council:*

(a) of the respective numbers, as projected by the authorities, of graduates of subsidized and self-financing undergraduate and sub-degree programmes in each year from 2015 to 2018, with a breakdown by their major subjects;

(b) of the total number, as projected by the authorities, of the job vacancies available for application by graduates of post-secondary programmes in each year from 2015 to 2018, with a breakdown by type; whether they have assessed if the total number of such vacancies, and its breakdown by type, will be commensurate with the number of job seekers; and

(c) given that two batches of secondary school graduates from the new and the old academic structures for senior secondary education respectively had been admitted last year to the Bachelor of Laws Degree programmes and they will be graduating in the same year, whether the authorities have assessed the impact of such a situation on these students' opportunities for admission to the Postgraduate Certificate in Laws (PCLL) courses after graduation, securing employment thereafter as trainee solicitors or seeking pupillage as barristers, and pursuing a career in the legal profession?

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to the Member for the question.

(a) At present, post-secondary institutions offer degree, sub-degree (including associate degree and higher diploma) and other training programmes of various professional and academic disciplines. Students may choose a progression pathway for further study or career development that best suits their interests, aspirations and abilities.

Regarding undergraduate programmes, overall speaking, the publicly-funded sector will witness an increase in the estimated number of graduates, from about 17 800 in 2015 to about 19 000 in 2018. As for the self-financing sector, the first year intakes for full-time accredited self-financing undergraduate programmes and intakes for top-up degree programmes were 7 886 and 6 560 respectively, totalling 14 446.

In the Annex submitted today, we have presented the overall figures for Members' reference. The overall intake number of sub-degree programmes is 39 180, whereas the overall intake number of undergraduate programmes is 33 446. This is the big picture. That said, we must emphasize that these are intake figures only. The graduate numbers in 2015 to 2018 can only be confirmed upon graduation of students, before which some of them may withdraw, discontinue or defer studies, and so on. Secondly, upon graduation, in particular in respect of sub-degree students, many would choose to pursue further studies, a factor we should take into account when considering the issue of graduate employment.

(b) I would like to point out that the Government conducts Manpower Projection from time to time to assess the trends of future local manpower supply and demand at the macro level, as well as the local manpower situation at different education levels. According to the Manpower Projection to 2018 released by the Labour and Welfare Bureau last year, with 2010 as the base year for projection, there may be a slight overall manpower shortfall in Hong Kong in 2018; manpower supply and demand for holders of first degree and above qualifications is forecast to be more or less balanced while those at upper secondary, craft, technician and sub-degree levels will experience a shortfall to the tune of about 22 000. The year-on-year change during the projection period is not reflected.

As for the supply and demand situation of individual sectors, many variables come into play, including graduates' choices for further studies and career development, changes in the marketplace, and so on. The primary role of the Government is to promote the flow of relevant information to facilitate the matching of supply and demand. For instance, the Manpower Projection to 2018 provides the manpower requirement projection (MRP) analysed by economic

sectors, and similarly the Vocational Training Council conducts surveys from time to time on manpower requirements of individual sectors in order to provide useful planning information to facilitate institutions, various sectors and relevant Policy Bureaux in manpower planning. In formulating academic development proposals, the University Grants Committee (UGC) sector will balance various factors, such as socio-economic needs of the community, institutional development, number of academic staff available, interests of students, and so on, while making reference to the Government's MRP as well as the advice of relevant Policy Bureaux and sectors, before setting student intakes for various academic programmes. The Government does not set any parameters for student intakes of individual programmes, except for a few professional disciplines (such as medicine, nursing, teacher training, and so on). As graduates of these academic disciplines are mainly trained by UGC-funded institutions and employed by the public sector, the Government is in a better position to make more accurate manpower requirement targets for these academic disciplines. In parallel, the self-financing sector also responds promptly to the needs of the community and provides diversified programmes and intake places in a flexible manner. I would like to highlight that, when post-secondary institutions formulate their academic development proposals, the employment prospects of students is one of the major factors taken into consideration.

Most importantly, apart from focusing on knowledge in specialized disciplines, the new academic structure (NAS) equips young people with a broad knowledge base, strengthens their language proficiency and other generic skills for enhancing their whole-person development and lifelong learning capabilities, which help lay a solid foundation for them to seek employment in various sectors.

(c) Under the NAS, the length of all UGC-funded undergraduate programmes has been extended by an additional year (mainly extended from three to four years), except for Bachelor of Laws (LLB) and related double degree programmes. Upon consultation with the Standing Committee on Legal Education and Training (SCLET), the Education Bureau and UGC have decided to maintain the lengths of LLB and related double degree programmes at four and five years respectively. As the 2012-2013 academic year is a

double-cohort year, the number of approved first-year places for UGC-funded undergraduate programmes has been doubled to cater for the study needs of both cohorts of senior secondary graduates under the new and old academic structures. Accordingly, two cohorts of graduates are expected for the LLB programme in 2016 and the same for related double degree programmes in 2017, with the intake numbers involved at 440 and 280 respectively.

The two cohorts of law students graduating in 2016 and 2017 respectively will generate additional demand for places of the PCLL programme as well as post-PCLL training opportunities. The issues have been discussed at SCLET meetings. On the part of the Government and the UGC, we will give due consideration in the context of the next round of academic planning. Our initial thinking is to provide one-off additional UGC-funded PCLL places to meet the increased demand in 2016, 2017 or even 2018. Moreover, we will invite the three local law schools to weigh the feasibility of offering more self-financing PCLL places to meet the needs of these two cohorts of LLB graduates as well as graduates of other law programmes, including Juris Doctor or overseas law programmes. As regards post-PCLL training for the double cohorts of graduates, we will invite the SCLET to discuss and study the pertinent issues, and to provide directions and make suitable recommendations to the legal sector.

Annex

Latest available annual intakes of full-time locally-accredited undergraduate and sub-degree programmes by broad academic programme category

Programme type	*Broad academic programme category*							
	Medicine, dentistry and health	*Sciences*	*Engineering and technology*	*Business and management*	*Social sciences*	*Arts and humanities*	*Education*	*Total*
Sub-degree programmes								
UGC-funded [^]	0	133	1 080	128	1	123	193	1 659
Publicly-funded under VTC [#]	295	1 395	3 104	240	1 110	870	300	7 314

Programme type	*Broad academic programme category*							
	Medicine, dentistry and health	*Sciences*	*Engineering and technology*	*Business and management*	*Social sciences*	*Arts and humanities*	*Education*	*Total*
Self-financing #	1 224	3 180	1 104	13 330	4 713	6 066	590	30 207
Sub-total	1 519	4 708	5 288	13 698	5 824	7 059	1 083	39 180
Undergraduate programmes								
UGC-funded ^	1 957	3 236	3 483	4 067	2 969	2 730	558	19 000
FYFD places	1 754	2 585	2 830	3 130	2 224	2 002	475	15 000
Senior year places	203	651	653	937	745	728	83	4 000
Self-financing #	704	869	521	7 077	2 325	2 515	435	14 446
FYFD places	580	350	310	3 383	1 512	1 420	331	7 886
Senior year/ Top-up degree places	124	519	211	3 694	813	1 095	104	6 560
Sub-total	2 661	4 105	4 004	11 144	5 294	5 245	993	33 446
GRAND TOTAL	4 180	8 813	9 292	24 842	11 118	12 304	2 076	72 626

Notes:

(1) "FYFD" stands for "first-year-first-degree", "UGC" stands for "University Grants Committee", and "VTC" stands for "Vocational Training Council".

(2) For the purpose of illustrating the overall annual supply of full-time locally-accredited undergraduate and sub-degree intake places by broad academic programme category (APC), latest available figures are used to compile this table, that is, figures related to UGC-funded places (^) refer to the approved intake places in the final year (2014-2015) of the 2012-2013 to 2014-2015 triennium for which funding has been secured, whereas other figures (#) are estimated intakes in the 2012-2013 academic year.

(3) Factors such as attrition, discontinuation of studies, deferral of studies, inter-discipline transfer, over-/under-enrolment of local students in UGC-funded programmes, and so on, are not taken into account in the current context. Therefore, the number and distribution of graduates may not be the same as intake figures shown above. Moreover, it should not be assumed that all students would immediately join the workforce upon graduation. For example, a substantial number of sub-degree graduates would choose to pursue senior year/top-up degree programmes.

(4) Since some UGC-funded programmes (^) can be mapped to more than one APC, student numbers of these programmes may be counted across the APCs concerned on a pro rata basis and rounded to the nearest whole number. As for all other programmes (#), they are classified into a single most relevant APC.

MRS REGINA IP (in Cantonese): *President, part (c) of my main question is about the future situation, particularly the 2016-2017 and 2017-2018 academic years when there will be large numbers of graduates from PCLL courses and double degree programmes. How will the Government handle their training or employment opportunities? The Secretary's reply only mentions that the intake numbers will be 440 and 280 respectively. But according to the information*

given to me by the dean of a faculty of law, the number of graduates from PCLL courses in the 2016-2017 academic year will increase from normally 500 to 800, and in the 2017-2018 academic year, the number of graduates from double degree programmes will go up from normally 120 to 250, meaning rougly a 100% increase.

Will the Government make any special arrangements for their employment or training? Will the Department of Justice, for example, increase the number of trainee places and internship positions?

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to the Honourable Member for asking her question. Thanks to the Honourable Member for giving the data just now. Some of the data actually cover the number of graduates returning from overseas studies. As I mentioned just now, at the level of the SCLET ……

(Mrs Regina IP stood up)

PRESIDENT (in Cantonese): Secretary, please wait. Mrs Regina IP, what is your question?

MRS REGINA IP (in Cantonese): *I would like to make a point of clarification. The data given to me by this professor of law have already discounted the graduates returning from overseas studies. The relevant total numbers are: about 800 PCLL graduates in the 2016-2017 academic year, and 250 double degree graduates in the 2017-2018 academic year. These numbers have already discounted those graduates returning from overseas studies.*

SECRETARY FOR EDUCATION (in Cantonese): President, the figures I have mentioned include the demand of other Juris Doctor or overseas LLB programmes, so the numbers of relevant places are 400-odd and 200-odd respectively. President, the important point is that the SCLET has already noted this matter, and will appropriately increase the provision of professional programmes in the next three years. Besides, we also hope that the number of self-financing places can be increased. But this requires further discussion.

More importantly, we need to forecast their demand for internship and other opportunities after graduation. As the SCLET includes three representatives of law bodies, the legal sector will receive a lot of information and assistance. So, we can all work together to face this formidable but one-off challenge.

MR GARY FAN (in Cantonese): *President and Secretary, 28 000 students have attained the minimum entrance requirements of publicly-funded universities this year, but there are only 12 000 places under the Joint University Programme Admissions System (JUPAS); in other words, some 16 000 students cannot gain admission to the eight tertiary institutions in Hong Kong even though they can meet the entrance requirements. But at the same time, according to the Government's information, as many as 10 769 non-local students were enrolled in UGC-funded undergraduate programmes in the 2011-2012 academic year, while the number of Mainland graduates permitted to stay and work in Hong Kong also increased substantially from 3 200 per annum in 2009 to 6 400 last year, that is, 2012. May I ask the Secretary whether the Government has any plan to review the current programme of allowing Mainland students to study in Hong Kong and then work here after graduation, so as to ensure local students' priority in receiving local post-secondary education and securing local employment?*

PRESIDENT (in Cantonese): Mr FAN, as the main question is about the employment of graduates who have completed tertiary education in Hong Kong, only half of your supplementary question is directly related to the main question. Secretary, you can answer the part on whether the employment of Mainland students in Hong Kong after graduation will have any impact on the employment of local students.

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to the Honourable Member for the supplementary question. When Mainland students account for only 4% of the total 20%, we must consider how big the impact can be. This is the first point. Second, theoretically, these students can stay in Hong Kong for one year after graduation to consider their employment, but many will go to other places or return to the Mainland for further studies. This is the second point. Hence, in respect of employment opportunities, the pressure from Mainland students is not as great as we may have imagined. This is the first point. Second, we also need to note one thing concerning overall manpower

planning: Hong Kong's current unemployment rate is extremely low, and the overall manpower demand is still quite keen. Therefore, we do not think that any special problems will emerge in this regard in the short run. For the long run, the 10-year manpower projection I mentioned just now shows that the demand for manpower with higher education or degree qualifications will be very keen, and the manpower supply and demand for holders of such qualifications will just be more or less balanced. Besides, there will also be a shortage of manpower with post-secondary qualifications in various types of occupations. Hence, Members can rest assured that we will closely monitor the development in the areas of employment, further studies and training.

MR IP KIN-YUEN (in Cantonese): *President, the Annex to the main reply sets out the number of full-time sub-degree students and undergraduates by broad academic programme category. From the Annex, I notice an interesting phenomenon which we should look at: the intake of self-financing sub-degree programmes on business and management accounts for a very high proportion — about half of the intake of all self-financing sub-degree programmes goes to business and management programmes. On the other hand, the intake of first degree programmes on business and management accounts for only one fifth of the total. I would like to ask the Secretary one question. In his main reply, he says that the self-financing sub-degree sector can respond promptly to the needs of the community and provide diversified programmes and intake places in a flexible manner. I wish to know the Secretary's thinking in this regard. Is the very high proportion of business and management programmes in all self-financing sub-degree programmes a flexible response to the needs of the community? And, is this phenomenon closely related to career prospects after graduation? In this connection, are there any other causes leading to such a high percentage of business and management programmes?*

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to the Honourable Member for the supplementary question. The intake of business and management programmes is about 13 000. If Members can do some analyses, they will see that this category of graduates can actually engage in different types of occupations. They do not always have to work in the business sector, because public organizations also need this type of middle-level talents in management, accounting and other areas. Hence, one important feature of the self-financing sector is the provision of different programmes in a flexible

manner on the basis of demand. In the case of accounting, for example, the requirements of public organizations and private organizations are different, so the relevant programmes will seek to meet their requirements. The variety of programmes here is very extensive.

IR DR LO WAI-KWOK (in Cantonese): *President, the Secretary mentioned in his main reply that by 2018, there will be a shortfall of about 22 000 "at upper secondary, craft, technician and sub-degree levels". We cannot ignore the impact of such a shortfall on Hong Kong's industries, businesses and economy. As we all know, the VTC is the major provider of craftsman and technician training. May I ask what kind of concrete support — I mean really concrete support — the authorities will provide to the VTC in this regard, so that it can strengthen the relevant training to resolve this imminent manpower problem? Are there any solutions for the various industries, particularly the construction industry and infrastructure industry, which are both facing a very severe manpower shortage?*

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to the Honourable Member for the supplementary question. We understand that in respect of career-oriented education and manpower demand, the VTC and other technical education institutions have also provided their support and the required training programmes. On the issue of talents, the Budget has also mentioned the problem of manpower shortage, so it is necessary to provide manpower training through many different modes. For instance, we have specifically provided some value-adding training services for elementary occupations, and those offered by the Employees Retraining Board and other organizations are some examples. Besides, the VTC will also introduce new projects and training programmes in individual areas from time to time. Let me give a simple example. The VTC has provided training in international cuisine and Chinese cuisine to cater for the needs of the catering industry. In addition, the VTC has also liaised with the relevant industries to work out training programmes geared to their needs. For example, in response to the manpower demand of certain new occupations such as personal care, it has stepped up manpower training for the relevant industries.

DR KENNETH CHAN (in Cantonese): *President, we can see that over the past few years, in response to Hong Kong's manpower needs in different stages of economic development, our universities have proposed to organize some new programmes. However, due to the quota restriction of 15 000 places imposed by the UGC or the Bureau, many universities must first curtail their existing programme places before they can organize any new programmes. In fact, can the Secretary promise us that after completing their review of manpower demand in the future, the authorities will stop requiring universities to first curtail their existing programme places before organizing new programmes, and instead increase the quota of 15 000 places for the purpose, so that the universities can smoothly organize new programmes that can suit the needs of our society, help Hong Kong and meet the needs of university graduates?*

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to the Honourable Member for the supplementary question. The discussion today can make us see the challenging demand-supply situation facing individual areas of professional training or programmes. Hence, when we give overall consideration under our triennium planning, especially in respect of the UGC's arrangements, we will review the manpower situation. That is the first point. Second, Members should also note that apart from the quota of 15 000 places, we still have 4 000 senior year entry places in Year 2 and Year 3 of undergraduate studies for top-up degree programmes. This is another arrangement for allocation of places, and the aim is to better dovetail with the manpower framework. We do not hope to see the universities come under any heavy impact in the process. Hence, triennium planning can enable the universities to dovetail with the overall situation as important providers of education and training. Furthermore, apart from publicly-funded undergraduate places, we still have many other diversified channels to cater for the relevant needs.

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

DR KENNETH CHAN (in Cantonese): *No. My supplementary question is actually very simple. Will he undertake that the authorities will stop forcing the universities to curtail existing programme places before allowing them to offer*

some new programmes which the Government, the UGC, or even society in fact want them to offer? Can he give this undertaking?

SECRETARY FOR EDUCATION (in Cantonese): President, just now, I have already mentioned the quota of 15 000 places and other relevant support measures. As the youth population is decreasing constantly, we are thus provided with some room for alternative arrangements. As I have explained, it is not our intention to force the universities to curtail their existing programme places. My understanding is that basically, the various institutions will, on the basis of their programme demand, designs, objectives and developments, work out how they will dovetail with the new triennium planning while maintaining their education objectives. I believe that we should consider the matter and look forward from this perspective. Should any institutions consider that certain programmes can more than satisfy the related manpower demand and decide to transfer any surplus places to other programmes in need, I would think that this is in line with the existing operational approach.

PRESIDENT (in Cantonese): This Council has already spent over 22 minutes on this question. Fourth question.

Public Consultation on Constitutional Reform

4. **MS EMILY LAU** (in Cantonese): *President, regarding the contents and timetable for public consultation on constitutional reform, will the executive authorities inform this Council:*

(a) given that the Convenor of the Non-official Members of the Executive Council has recently expressed that a growing number of people who care about politics hope that the Government will expeditiously roll out the public consultation on constitutional reform because people will feel that the Government is procrastinating if it keeps on repeating that it will conduct public consultation at "a suitable time" and their patience is wearing out, why the authorities have not, after a long time, put forward a proposal on constitutional reform for public consultation; and

(b) whether the consultation paper on constitutional reform will include, apart from electoral arrangements, other important issues of constitutional reform, such as amending the law to abolish the stipulation that the Chief Executive must not be a member of any political party, so that the Chief Executive may form a ruling coalition with the major political party (parties) in the Legislative Council for sharing power and responsibilities, as well as for joint governance of the Special Administrative Region(SAR), so that the Chief Executive no longer has to rely on the current "one-off approach" in seeking the support from various political parties in the Legislative Council for each and every issue; whether they have studied if it will contravene the Basic Law and the spirit of "one country, two systems" for the Government to be headed by a political party (parties); if they have conducted such a study, of the details; if not, the reasons for that?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, our reply to the questions raised by Ms LAU is as follows:

(a) The SAR Government understands that the public have keen expectations towards the universal suffrage for the election of the Chief Executive in 2017. As the Chief Executive indicated at the Legislative Council Question and Answer Session on 11 July, we have great commitment in implementing universal suffrage for the election of the Chief Executive in accordance with the Basic Law and relevant decisions and interpretations of the Standing Committee of the National People's Congress (NPCSC). There are currently different views in various sectors of the community on constitutional development, and there are some differences in opinion on certain fundamental questions. To implement successfully universal suffrage for the election of the Chief Executive in 2017, the entire community has to seek common grounds and accommodate differences to forge a consensus; strictly adhering to the Basic Law and the relevant decisions and interpretations of the NPCSC in taking forward constitutional reform is also an important basis for the society to reach a consensus on achieving the aim of universal suffrage for the election of the Chief Executive.

Over the past year, the SAR Government focused on handling livelihood and economic issues, which are matters of the greatest concern of the public. We envisage that we would have more chance to handle constitutional development issues in the coming year.

Although at this stage the formal consultation on the electoral methods of the 2017 Chief Executive Election and the 2016 Legislative Council Election has not yet commenced, we have been closely monitoring the opinions and proposals expressed by different sectors of the community, and meeting with different people to exchange views on constitutional development, to get ourselves well prepared for the formal consultation exercise. We will continue such efforts proactively.

(b) There is no explicit provision in the Basic Law on whether the Chief Executive may belong to a political party. The Chief Executive Election Ordinance (Cap. 569) allows a political party member to run for the Chief Executive election; however within seven working days after he is declared elected he has to publicly make a statutory declaration to the effect that he is not a member of any political party. In addition, the elected person has to lodge with the Returning Officer a written undertaking to the effect that he will not, if appointed as the Chief Executive, become a member of any political party, or do any act that has the effect of subjecting himself to the discipline of any political party during his term of office as the Chief Executive.

The SAR Government consulted the public as to whether the Chief Executive should be allowed to be a member of a political party in previous consultations on constitutional development. In the report issued in April 2010, it is mentioned that opinion polls had indicated that more than half of the respondents considered that the requirement that the Chief Executive should not be a member of a political party should be maintained, and there were also noticeably more written submissions received supporting that such a requirement should be maintained. However, the majority views put forth by political parties and Members at the then Legislative

Council at that time proposed that the current requirement should be abolished. The SAR Government at that time decided that the relevant requirement should not be changed for the 2012 Chief Executive election, but could be reviewed in the longer term.

Since there are quite a few members of the public who have recently expressed views on the issue of political affiliation of the Chief Executive, we will consider including this issue in the consultation document during the formal consultation.

MS EMILY LAU (in Cantonese): *President, the Basic Law does not expressly provide that the Chief Executive must not be a member of any political party. In the consultation years ago, many Members of the Legislative Council opposed such prohibition, but the authorities insisted on inserting this requirement. Furthermore, my main question is not only about whether the Chief Executive can be a member of any political party; it also asks whether the following issues can be included in the consultation: first, whether the Chief Executive can belong to any political party; and second, whether the Chief Executive may form a ruling coalition with political parties for sharing power and responsibility, as well as for the joint governance of the SAR, so that the Chief Executive needs not adopt the current "one-off approach". Has it ever occurred to the authorities that since they forcibly included a ban on the Chief Executive's political affiliation when enacting the required local legislation years ago, they must now adopt a "one-off approach" for governing the SAR, and society as a whole and they themselves must suffer as a result?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the contents of the consultation, the main reply already mentions that we will consider the inclusion of this issue in the formal consultation document in the future. I believe Members and the various sectors of the community will then be able to express their views on this important topic.

The other issues mentioned in Ms LAU's supplementary question, such as the formation of a ruling coalition, are already mentioned in the main question. Perhaps I should give some additional information here. Under Article 48 of the Basic Law, the Chief Executive has the power to nominate and report to the

Central People's Government for appointing the various principal officials. Furthermore, Article 55 of the Basic Law also empowers the Chief Executive to appoint Members of the Executive Council from among principal officials, Members of the Legislative Council and public figures for assisting him in policy-making.

From the aforesaid Articles, we can see that although the Chief Executive is forbidden by the existing requirement to have any political affiliation, the Basic Law is already designed to give the Chief Executive considerable power and flexibility to nominate people sharing his governance philosophy for appointment as principal officials of the SAR Government, or to appoint persons he deems suitable, including members of political parties, to the Executive Council. In fact, some people with political background are already serving as principal officials, Under Secretaries, Political Assistants and Members of the Executive Council.

MR CHAN KIN-POR (in Cantonese): *President, concerning consultation on constitutional reform, I think the Government should spend more time on formulating a good proposal, rather than proceeding hastily. The SAR Government often emphasizes that it will allow sufficient time for consultation. Can the Secretary explain in detail all the required steps in the consultation on constitutional reform, and explain why there will still be sufficient time for completing consultation even if it commences early next year?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): First of all, I must clarify that the SAR Government has not yet made any decision or announcement on the timeframe for commencing formal consultation, not to mention any commencement of consultation early next year as described by Mr CHAN Kin-por. We have not yet made any decision on an actual timeframe.

Nevertheless, at the request of Mr CHAN kin-por just now, I should perhaps briefly explain the steps required for consultation on constitutional reform. According to the experience of the two major consultation exercises on constitutional reform in the past decade, before the Chief Executive takes the first step to submit a report to the NPCSC and request the activation of constitutional

reform procedures under the "five-step mechanism" mentioned in the NPCSC's decision on 6 April 2004, he will first follow the procedure of consulting the public, as in case of the past two major constitutional reforms.

We published a consultation document at that time to: first, give the necessary background information for public reference; and second, raise a number of open-ended questions and solicit the views of the public and various social sectors. Following this procedure, the Chief Executive would launch the work of the first step based on the outcome of the pre-activation consultation. The second step would be for the NPCSC to make its decision. After a decision is made to activate the constitutional reform procedures, the SAR Government will conduct a second round of consultation.

According to past experience, the second-round consultation will focus on topics with suggested directions or the elements to be included in the future package. After this, the Government will submit a package to the Legislative Council based on the outcome of this round of consultation. This is the third step, and the relevant package must be endorsed by a two-thirds majority of the Members of the Legislative Council. If the package is endorsed, we will take the fourth step, the step of seeking the Chief Executive's consent. And, the fifth step is to report to the NPCSC for approval and the record.

Following the completion of these five steps, amendments will be introduced accordingly to Annex I and Annex II to the Basic Law, and the process of enacting local legislation will then begin. During the enactment of local legislation, we will, as with the formulation of other bills, conduct another round of public consultation to seek the views of various sectors on a number of more specific proposals related to the ordinances requiring amendments, such as the Chief Executive Election Ordinance. At the same time, the passage of the bill by the Legislative Council must be sought. I hope the aforesaid explanation can provide sufficient information for Mr CHAN's reference.

DR LAM TAI-FAI (in Cantonese): *President, after all your liaison work and wonderful arrangements, ZHANG Xiaoming finally turned up at the luncheon in the Legislative Council yesterday. He looked absolutely sincere and had "rational communication and benign interaction" with various parties and groupings. We could all see on television Director ZHANG's great confidence and poise when expressing his views on constitutional reform in public ……*

PRESIDENT (in Cantonese): Dr LAM, please do not express your own views.

DR LAM TAI-FAI (in Cantonese): …… *No, whether the Secretary has seen all this on television is most important, because if he has not, I cannot possibly ask my follow-up question.*

PRESIDENT (in Cantonese): Please state your supplementary question.

DR LAM TAI-FAI (in Cantonese): *The SAR Government is completely reticent on constitutional reform. The Chief Executive, in particular, is always so evasive, refusing to talk about constitutional reform issues. In contrast, ZHANG Xiaoming was frank and positive in responding to all the questions raised by the media yesterday. As the saying goes, "comparison is the best illustration of deficiency". May I ask the Secretary whether it is the intention of the Government to relinquish its role of leading the consultation on constitutional reform, and abandon the concepts of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy"? If the answer is negative, can the Government put forward a concrete timeframe or state a cardinal point for consultation? I want to ask these questions because ZHANG Xiaoming even compared his screening theory to a sieve yesterday.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Dr LAM has raised several points in his supplementary question. My answer to the first one is yes. I did watch the television broadcast, and the live broadcast too, to be exact. I also agree that Director ZHANG Xiaoming answered the questions very fluently and his poise was highly admirable. I believe the Members here all think very highly of him, and this is evident in the newspaper reports today.

As for the second or third point of his supplementary question, the point on the role of the Chief Executive and the SAR Government in the consultation on constitutional reform, I must reiterate here that under our constitutional arrangements, all constitutional reform proposals must be endorsed by the Legislative Council, consented by the Chief Executive and submitted to the NPCSC for approval or the record. In other words, the constitutional roles and

duties of the SAR Government, the Central Authorities and the Legislative Council are all defined clearly, and none of them is dispensable.

I am aware that some in society are saying that if two of these three parties communicate in private, the third party will be pre-empted, and so on. Constitutionally, this argument is untenable. And, honestly, there is no need to say anything like this because as I pointed out, to secure the passage of any constitutional reform package and implement universal suffrage, all the three parties must seek common grounds and accommodate differences, and forge a consensus.

DR LAM TAI-FAI (in Cantonese): *President, the Secretary has only explained the five-step mechanism without answering my supplementary question.*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

DR LAM TAI-FAI (in Cantonese): *My supplementary question is: is it the intention of the Government to relinquish its role of leading the consultation on constitutional reform? You know, the Chief Executive has been so evasive, merely saying that at an appropriate time ……*

PRESIDENT (in Cantonese): You have already repeated your supplementary question. Please sit down.

DR LAM TAI-FAI (in Cantonese): …… *public consultation would be conducted. But I am asking him whether there is any timeframe or cardinal point for consultation.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I have said in the main reply, although formal consultation has not yet commenced, my Policy Bureau and the Chief Executive have already been having exchanges and discussions with people from various

social sectors for quite some time, and we will continue to do so even during the upcoming recess of the Legislative Council.

DR LAM TAI-FAI (in Cantonese): *President, the Secretary has still not answered the part of my supplementary question on relinquishing the leading role.*

PRESIDENT (in Cantonese): The Secretary has already given a reply.

MR TAM YIU-CHUNG (in Cantonese): *President, the Secretary has pointed out in the main reply that the authorities have been meeting with different people to exchange views on constitutional development, so as to get well prepared for the formal consultation exercise. It is also said that they will continue to do so. May I ask the Secretary how many people you have met with so far? In particular, how many pan-democratic political parties in the Legislative Council have you met with? How many such meetings have you held? What are the results? Can the Secretary give us an account, so that we can know more?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): In response to Mr TAM's supplementary question, I can only say that for a good part of this year so far, my Under Secretary, Political Assistant and I myself have been sharing the task of meeting and communicating with Members of different backgrounds in the Legislative Council. Of course, as at today, we have not yet met with all the 70 Members individually, but I believe that in the time to come, there will still be many opportunities for us to hold in-depth discussions and gain a good understanding of each other's views.

So far, my Policy Bureau has focused more on meeting with individual organizations or individuals in the community who have put forward specific views on constitutional reform. Since we can only hear their views from news reports in many cases, we may not be very clear about their lines of thoughts, especially in regard to why they think that a certain proposal is or is not in compliance with the Basic Law or the decisions of the NPCSC. Therefore, we want to arrange meetings with them at some convenient times, so that we can listen more to their opinions. This will be of help to us when we launch formal

consultation at a later time. As regards the people whom we have met, the topics discussed, the outcomes of discussion, and so on, we will not, as our usual practice, disclose any specific information about meetings conducted in this manner.

MR ALBERT HO (in Cantonese): *President, I believe the Secretary should be the representative of the Chief Executive. But even up to this moment, he does not dare to disclose anything about the consultation timetable and the approximate commencement time. Neither does he dare to say anything about the deadline for the launching of consultation.*

In that case, let me raise another question. I believe this was also the supplementary question that Dr LAM Tai-fai wanted to ask, only that he might not have the necessary verbal skills to tie down the Secretary. Let me ask you to answer several questions unequivocally. Do you have any political stance? You and your top leader, LEUNG Chun-ying, belong to the same team, and in the face of Hong Kong's most controversial issue, the issue of constitutional reform, does this team of yours have any political stance? During the consultation, will you suggest any basic convictions of yours as the basis of gauging public views? Your suggestions should cover whether functional constituencies should be abolished; whether the ratio of functional constituencies in the 2016 election should at least be reduced substantially; whether direct civil nomination of Chief Executive candidates should be allowed; and whether a screening mechanism should be put in place, or whether the threshold should instead be lowered as far as possible to allow people with different political views to participate. To begin with, do you have any such suggestions, Secretary? Or, is your brain totally blank, and are you totally without any independent views? Are you going to succumb totally to Beijing's orders and thus disable yourself entirely?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Actually, we have repeatedly set out our principle and stance on various occasions, including our meeting with the press the day before yesterday. The most fundamental and important principle is that the implementation of universal suffrage for electing the Chief Executive in 2017 and forming the Legislative Council in 2016 must, and can only, comply with the provisions of the Basic Law and the NPCSC's decisions, regardless of which constitutional reform issues are being dealt with in the process.

During our meeting with reporters the day before yesterday, I also talked about some principles and concepts which should be considered in relation to the two aspects mentioned above. To start with, the design of the political structure under the Basic Law must be based on four principles that must be adhered to, as follows: first, all must be based on gradual and orderly progress; second, the actual situation must be taken account of; third, consideration must be given to the interests of the different sectors of society; and fourth, the structure must facilitate the development of the capitalist economy. I also mentioned that, under Article 45 of the Basic Law, the implementation of universal suffrage for the election of the Chief Executive would involve the three stages of nomination, election and appointment, all of which were about the exercise of substantial powers.

In case any packages put forward in society or in the future consultation process encroach on or run counter to the aforesaid four principles or the sources and exercise of the substantial powers in the three stages, we will certainly find it difficult to accept them. However, if there is no conflict with these principles and the sources and exercise of these substantial powers, and if the packages concerned can even largely comply with the principles and powers, they can of course be treated as proposals that can be submitted to the Legislative Council for discussion and endorsement in the next stage.

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

MR ALBERT HO (in Cantonese): *President, my supplementary question is very clear, and I have given a few actual examples, asking the Secretary whether he has any views on these examples. I do not want to hear this sort of recited answers. Who does not know how to say something like this if he has the script in hand? However, such answers are useless. My question is: does the Secretary have any views on the several specific issues I raised just now? Does he think that they are compatible with the principles mentioned by him just now and whether they will be completely ignored during the consultation? The Secretary has not given a reply in this regard.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Mr Albert HO's supplementary question involves three issues, namely the way forward for functional constituencies; how the nomination procedures for the Chief Executive can comply with the democratic procedures set out in Article 45 of the Basic Law; and the specific threshold or contents of the nomination procedures. All these issues will be set out in the consultation document for consulting the views of various sectors. I believe it may not be the fairest approach for the SAR Government to put forward any specific proposal at this stage before the consultation exercise is formally initiated.

MR ALBERT HO (in Cantonese): *President, my supplementary question is: Will the Secretary put forward his suggestions during the consultation and do they have any suggestions to put forward during the consultation?*

PRESIDENT (in Cantonese): The Secretary has already given a reply regarding the Government's policy.

MR CHAN HAN-PAN (in Cantonese): *President, I would like to raise a question concerning the "sieve". The Secretary has referred to a comment of the NPCSC, saying that the composition of the nominating committee may be formulated with reference to the composition of the Election Committee. According to him, although this is not a prerequisite, it is nonetheless a natural conclusion. Will the Secretary explain whether he is implying that all methods for forming the nominating committee which do not include the four major sectors will not be implemented? Or, is he saying that so long as the relevant policy principles were observed, the proposals concerned could still be considered despite the omission of the four major sectors?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, let me begin with something less serious before giving a formal reply. Dr LAM Tai-fai just now asked whether I had watched the television broadcast. I did, and I saw how Director ZHANG talked about using a sieve to separate the grain from the chaff. I happened to come across a similar analogy when reading Chapter 13 of the Gospel According to St Matthew in the

Bible this morning. However, I am not going to use this analogy to answer the question; I just want to mention it as a quick remark.

Coming back to the expression "with reference to", I should perhaps put it that way. I said the day before yesterday that it was very natural to conclude that the composition of the nominating committee may be formulated with reference to the Election Committee. In fact, I also explained afterwards that this was a desirable approach because it could cater for the three most important principles. First, it is the principle of gradual and orderly progress. Second, it is the principle of looking after the interests of various sectors. Third, under Article 45 of the Basic Law, there is only one requirement for the composition of the nominating committee: its being broadly representative. Now, according to Annex I to the Basic Law, the composition of the Election Committee must also meet the same requirement of being broadly representative. Hence, the two committees must meet the same requirement. In other words, if the composition of the Election Committee is used as a reference for the nominating committee, there will be the same result of being broadly representative for the latter.

As regards what is meant by the expression "with reference to", please allow me to spend one more minute to offer an explanation, President. In fact, in a seminar held on constitutional development on 29 December 2007, the same day in 2007 when the NPCSC passed its decision, QIAO Xiaoyang, former Deputy Secretary General of the NPCSC, made the following comments concerning "with reference to" (and I quote): "In the 230 laws currently in force in our country, 'with reference to' can be found in 85 places in 56 laws. In these 85 places, 'with reference to' is most commonly used to mean that where the law sets out specific provisions on one particular situation but does not do so for another similar situation, reference to the former shall be made." Hence, according to Deputy Secretary General QIAO Xiaoyang, "while 'with reference to' is binding, it also allows appropriate adjustments in the light of the actual situation." Deputy Secretary General QIAO Xiaoyang went on to say to this effect: the decision of the NPCSC this time (that is, 2007) clearly specifies that the composition of the nominating committee may be formulated with reference to the composition of the Election Committee, because it wants to ensure that while the four major sectors in the Election Committee is retained as a basic component of the nominating committee, discussions on its specific composition and scale can still continue, and there will still be room for appropriate adjustments.

Hence, President, I believe that when formal consultation commences, what I quoted just now will be set out as an option for the composition of the nominating committee for further discussion by the public.

PRESIDENT (in Cantonese): Eight Members are still waiting for their turns to ask questions, but this Council has already spent 24 minutes on this question and exceeded the specified time limit. I suggest that Members use other channels to follow up this important issue. Fifth question.

Measures to Assist Securities Dealers in Developing Mainland Market

5. **MR CHRISTOPHER CHEUNG** (in Cantonese): *President, it has been reported that the "Qualified Domestic Individual Investors Scheme" (that is, QDII2), which is known as the "mini through-train for Hong Kong stocks", is said to have new development recently. It has also been reported that in April this year, the Guangdong provincial authorities submitted the QDII2 trial scheme to the State Council, under which initially two to three securities companies registered in the Guangdong Province would be selected to provide individual Mainland investors with services for investing in the securities products listed on the Hong Kong Stock Exchange, and the investment quota would be RMB 20 million for each client at the maximum. Regarding assisting local securities dealers in developing the Mainland market through QDII2 and other channels, will the Government inform this Council:*

(a) of the progress of the discussions on QDII2 between the relevant authorities of Hong Kong and the Mainland; whether it knows the specific contents, vetting and approving progress as well as the implementation timetable of the trial scheme;

(b) whether it has assessed the business opportunities that will be brought to local securities dealers after the implementation of QDII2; how the authorities will ensure that small and medium securities dealers can engage in the business concerned; and

(c) of the progress of the work undertaken by the authorities to facilitate local securities dealers to develop business on the Mainland; how the authorities will expand the room of operation for local securities

dealers on the Mainland, so that the scope of their business will not be restricted to investment advisory business; and whether the authorities will seek approval from the Mainland authorities for local securities dealers to operate wholly-owned business on the Mainland to provide securities related services?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): We have been maintaining close liaison and co-operation with relevant Mainland authorities to promote cross-border investment activities between Hong Kong and the Mainland and to expand the room of operation for Hong Kong financial institutions on the Mainland.

Regarding entering the Mainland market to invest, relevant Mainland authorities, on the basis of the Qualified Foreign Institutional Investor (QFII), launched the Renminbi Qualified Foreign Institutional Investor (RQFII) arrangement in 2011, and the arrangement was further expanded this year. The China Securities Regulatory Commission announced the new revised pilot rules on 6 March this year, under which the types of institutions eligible for applying for RQFII have been enlarged to cover, amongst others, all Hong Kong-licensed asset management companies with major operations in Hong Kong. The investment restrictions of RQFII funds have also been relaxed. The changes enable more market players to participate in the RQFII scheme, and increase the attractiveness of the RQFII products for investors. So far, a total of 37 companies were granted the RQFII qualification, including the first local bank, with a combined approved RQFII investment quota of RMB 104.9 billion.

As regards foreign investment made by Mainland investors, the State Council executive meeting held in May this year proposed to establish the system for individual investors to invest overseas. We understand that relevant Mainland departments are making relevant preparation work. In this connection, we have been liaising with the relevant Mainland authorities to strive for the Qualified Domestic Individual Investors (QDII2) pilot scheme fully making use of Hong Kong's financial platform and services, so that local financial sector and intermediaries could participate in related business.

We have taken a number of measures to enhance the competitiveness and support the sustainable development of the industry in conjunction with the Securities and Futures Commission of Hong Kong (SFC). For example, the

SFC is discussing with the Hong Kong Securities and Investment Institute as to how it may help further enhance the quality and coverage of services provided by brokers, asset managers and other practitioners in the securities industry. The SFC indicates that it stands ready to provide financial support for increasing the variety and intensity of targeted training programmes. We have invited the SFC to focus such training support on small and medium-sized brokerage firms. This will help practitioners to meet market development needs.

Regarding assisting the local financial industry to gain further access into the Mainland market, we have been maintaining communications with relevant Mainland authorities in a bid to facilitate Hong Kong's financial institutions to gain access to the Mainland market. Under Supplement VI to the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) signed on 9 May 2009, qualified Hong Kong securities companies and Mainland securities companies which satisfy the requirements for establishing subsidiaries can set up in Guangdong Province joint venture securities investment advisory companies. The joint venture securities investment advisory company shall be a subsidiary of the Mainland securities company, the scope of business of which shall focus specifically on carrying on securities investment advisory business. The percentage of shareholding of the Hong Kong securities company could, at a maximum, reach one-third of the total shareholding of such a joint venture securities investment advisory company.

Since then, we have been working closely with Mainland authorities concerned in taking forward and enhancing the relevant measures. Under Supplement IX to CEPA concluded on 29 June 2012, the shareholding of Hong Kong securities companies in joint venture securities investment advisory companies has been increased to a maximum of 49% of the total shareholding, and the application of the measure has been expanded to cover the whole country.

Moreover, we hope to facilitate Hong Kong's financial industry to gain access to the Mainland market through Qianhai, seeking to lower the entry requirements for Hong Kong enterprises to enter the Mainland market, and increasing the shareholding limit of Hong Kong enterprises in joint-venture companies. Regarding the securities industry, we are striving to relax the percentage of shareholding of financial institutions with Hong Kong capital in Hong Kong-invested securities companies in Qianhai, allowing the establishment of two full licence securities companies with shareholding of Hong Kong capital in Qianhai (of which the percentage of shareholding of one Hong Kong capital

reaching 51% at a maximum, and the percentage of shareholding of another Hong Kong capital not exceeding 49%).

We will continue to maintain close liaison with relevant Mainland authorities in a bid to identify new business opportunities for Hong Kong financial institutions in the Mainland, including relaxing the upper limit of their shareholding in joint venture companies, expanding the range of services that they may provide, and so on. Meanwhile, we will continue to strengthen the co-operation and exchange between Hong Kong and the Mainland in respect of financial institutions, financial instruments, capital and talents, through CEPA and other regional co-operation platforms including those forged with Guangdong, Shanghai and Qianhai.

MR CHRISTOPHER CHEUNG (in Cantonese): *Secretary, it is reported in news reports today that an old securities company which has been operating in Hong Kong for 42 years, King Fook Securities, will close down at the end of this month. This proves that the local business is in deep water.*

The long-awaited QDII2 scheme — as reported — only allows two to three Mainland-registered securities companies with business operation in Hong Kong to engage in the trading of Hong Kong stocks. That being the case, Mainland investors can come to Hong Kong to buy Hong Kong stocks but local securities dealers are denied any opportunity of participation. May I ask if this arrangement is reasonable? Secretary, are there any ways to assist local securities dealers in sharing this opportunity? Taiwan securities dealers can enter the Mainland market and at least establish a presence in Shanghai, Fujian and Shenzhen, but why are Hong Kong securities dealers still subject to various restrictions? Can the Secretary make more efforts to help us?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, my thanks to Mr CHEUNG for his question. His supplementary question contains several parts. Let me try to answer.

On QDII2, let me first point out that as we understand it, since this arrangement was first proposed in the State Council executive meeting in May this year, the relevant Mainland departments have been making the required preparation work. We have been communicating with the Mainland but the

relevant details have not been worked out. Throughout the process of communication, we have been striving for the QDII2 pilot scheme fully making use of Hong Kong's financial platform and services, so that local financial sector and intermediaries could participate in related business.

The other part of his supplementary question is about Taiwan businessmen. This of course touches upon the Economic Co-operation Framework Agreement (ECFA). We are now striving for the inclusion of ECFA terms into the CEPA as appropriate. This is what we are doing.

MR CHAN KAM-LAM (in Cantonese): *President, it has been exactly 10 years since Hong Kong signed the CEPA with the Mainland in 2003. We can see that the financial and services industries have since been developing rapidly, and Premier LI Keqiang has also expressed his hope of fully liberalizing the services industry under the 12th National Five-year Plan.*

Over the past few years, we have signed at least four agreements pertaining to financial services, such as QDII, QFII, RQFII, and also this newly added RQDII2. With these several agreements, or at least these several supplementary agreements and investment arrangements pertaining to financial services, may I ask the Secretary whether he thinks that our next move should be to strive for a policy to fully liberalize the eligibility for all financial services, so that all practitioners of Hong Kong's securities industry and investors, and even Mainland investors can fully and freely engage in trading in the Hong Kong market?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Mr CHAN Kam-lam has raised a very good question. He has recapped how the CEPA, or other non-CEPA financial policies have removed the barriers between the markets of Hong Kong and the Mainland over the past decade. An objective recapitulation of what happened in the past 10 years will show us that Hong Kong has indeed done a lot in this respect. And, by dovetailing with the Mainland's liberalization policy, the local financial industry has also benefited.

At the moment, QDII2 is just a study scheme initiated by the State Council, rather than any policy as such. We must still observe how it works in the course

of implementation. The intent of the QDII2 is to enable individual Mainland investors to make investments in Hong Kong or overseas markets. In this regard, we welcome the scheme and consider that market liberalization will contribute to the development of the financial industry.

However, can full liberalization be possible? And, what will happen following full liberalization? Here, I would like to make a remark. Any overseas market contemplating any such market liberalization schemes must always proceed step by step, and in the case of China, since the market is huge and its capital account is not yet liberalized, it must be very cautious in handling market liberalization, giving consideration to investor protection and financial security. We have been discussing the relevant policies based on these two considerations and also the consideration of market development.

This must be the broad direction, and in this direction, we hope that when Mainland investors make investments in the Hong Kong market or overseas markets, whether through the QDII2 or any other schemes, we can capitalize on this opportunity and develop Hong Kong's securities industry and asset management industry.

DR LAM TAI-FAI (in Cantonese): *President, I believe the answer from the Government today will definitely disappoint Mr Christopher CHEUNG and the small securities dealers very greatly.*

Part (b) of the main question is very clear. Mr Christopher CHEUNG asks the Government "whether it has assessed the business opportunities that will be brought to local securities dealers after the implementation of QDII2". This is the firt thing. Second, he asks "how the authorities will ensure that small and medium securities dealers can engage in the business concerned". However, what the Government says in the main reply, in essence, is just that in order to enhance the competitiveness of the industry, further upgrade its quality and expand its scope of services, the SFC has expressed willingness to introduce a greater variety of targeted training programmes with more in-depth contents for the purpose of training small and medium securities dealers.

President, the question is not about the competitiveness of the industry, but about whether the industry can participate, and whether there will be any business opportunities. The Government has in fact given an irrelevant reply.

Frankly, if there are no business opportunities, the Government should let securities dealers know earlier, so that they will not cherish any expectations; if the securities dealers will have no chance to take part, they should be informed earlier, so that they can make alternative business arrangements ……

PRESIDENT (in Cantonese): Please state your supplementary question.

DR LAM TAI-FAI (in Cantonese): …… *Therefore, let me sharpen my focus and formally ask some questions on Mr Christopher CHEUNG's behalf. Will QDII2 bring any business opportunities to small and medium securities dealers? Yes or no? Second, if yes, can they participate? Will the business opportunities be monopolized by big securities dealers? Or, will the threshold be set so high that their participation will be impossible? I am not a securities dealer, so I really do not know much. But the important thing is that the Secretary must answer these two questions of Mr Christopher CHEUNG in a focused manner.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, may I ask Dr LAM to read another paragraph of the main reply: "In this connection, we have been liaising with the relevant Mainland authorities to strive for the QDII2 pilot scheme fully making use of Hong Kong's financial platform and services, so that local financial sector and intermediaries could participate in related business." This is our stance and also our direction of work. Of course, upgrading the competitiveness of the local financial sector has also been one of our principles for market development. The two go hand in hand and in my opinion, only this can allow us to boost market capacity and competitiveness in the long run.

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

DR LAM TAI-FAI (in Cantonese): *What about business opportunities? Will there be any business opportunities?*

PRESIDENT (in Cantonese): Are you asking the Secretary if there are any business opportunities?

DR LAM TAI-FAI (in Cantonese): *What about business opportunities?*

PRESIDENT (in Cantonese): Secretary, can you reply if there are any business opportunities?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The answer must be yes.

IR DR LO WAI-KWOK (in Cantonese): *President, in his main reply, the Secretary for Financial Services and the Treasury mentions co-operation platforms involving Hong Kong on the one hand and various Mainland regions such as Guangdong, Shanghai and Qianhai on the other. But he has left out Hengqin. My understanding is that under the Mainland's policy, while Macao is allowed to participate in the development of Hengqin, Hong Kong also has the opportunity to do so. Thus, my supplementary question is: has the SAR Government drawn up any policies and measures for co-operation in the development of Hengqin?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, this question is primarily about QDII2 and the related financial policies. And, of course, in regard to financial policies, the existing platforms of co-operation cannot possibly cover all places. The reason why I have mentioned the Hong Kong-Qianhai platform and the Hong Kong-Shanghai platform is that in the case of financial services, these platforms are very much in the centre of discussions on RMB trade settlement.

Many different aspects of Hengqin development of course warrant the attention of the SAR Government, and we do need to conduct some studies and have discussions with the relevant industries on certain schemes. But at this moment, the development of Hengqin does not involve any financial issues similar to the ones we are discussing today.

PRESIDENT (in Cantonese): Last oral question.

March on 1 July

6. **MR LEUNG KWOK-HUNG** (in Cantonese): *President, the organizer of the march on 1 July of this year estimated that the number of participants was 430 000, whereas the figure estimated by the police was 66 000. Quite a number of people who participated in the march have complained to me, expressing dissatisfaction with the police's under-estimation of the figure allegedly with the intent to mislead the public and the Central Government, as well as to play down the demands made by the people during the march (including the demand for the incumbent Chief Executive to step down). In this connection, will the Government inform this Council:*

(a) whether it has heard the demand made by the people during the march for the Chief Executive to step down; if it has, whether it will follow up; whether the authorities have assessed the number of people taking to the street which will make such a demand realized;

(b) of the number of police officers deployed by the police on the day of the 1 July march to count the number of participants, how the counting was conducted, and how the number of participants was arrived at (including whether only those participants setting off from the Victoria Park had been counted); whether the participants who joined the march midway had been counted; if so, of the respective numbers of participants who joined the march in Tin Hau, Causeway Bay, Wan Chai, Admiralty and Central, and the boundary lines for each of these districts; and

(c) whether the current training for police officers includes the counting of the number of participants in marches; of the rank of the police officer who decides to release to the media the number of participants in a march as estimated by the police, and the legislation based on which such a number is released; whether the authorities have a mechanism in place to impose severe punishment on police officers for releasing to the media a wrong estimate of the number of participants in a march?

SECRETARY FOR SECURITY (in Cantonese): President, Hong Kong residents enjoy the rights of assembly, procession and demonstration according to the Basic Law and other relevant laws. It is the operational policy of the police to strike a balance by facilitating all lawful and peaceful public meetings and processions on one hand and on the other hand minimizing the impact of public meetings and processions on other members of the public or road users, and to ensure public safety and public order.

Any person who plans to organize a public meeting or procession with the number of participants exceeding the limit prescribed in the Public Order Ordinance, that is, public meetings of more than 50 persons and public processions of more than 30 persons, shall give a notice to the Commissioner of Police (CP) not less than seven days prior to the intended event under the Public Order Ordinance, and it can only be conducted if the CP does not prohibit or object to it. The notification shall cover such basic information as the date of the public meeting or procession, time of commencement and duration, location or route, theme, the estimated number of participants, and so on. The CP may impose condition(s) on a notified public meeting or procession to ensure order of the event and public safety, and the corresponding condition(s) imposed will be stated explicitly in the "letter of no objection" issued to the organizers. Organizers may appeal to the statutory Appeal Board on Public Meetings and Processions if they consider the CP's decision unreasonable.

My reply to Mr LEUNG Kwok-hung's question is as follows:

(a) The SAR Government respects the lawful rights of the public to processions and expression of views and will take heed of their demands in a humble manner. Regardless of the number of participants in the procession, the Government will listen carefully and respond proactively to their various aspirations. The current SAR Government will continue to work hard and unite as a team. On the basis of various tasks commenced in the past year, the SAR Government will strive to respond to people's aspirations, react to and tackle conflicts and problems in society.

(b) and (c)

Generally speaking, upon receipt of notifications of public meetings or processions, the police will take a proactive approach in maintaining close communication with the event organizers to offer advice and assistance. The police will make reference to the number of participants and information provided by organizers, past experience in handling similar events as well as other operational considerations when assessing the management measures required for the crowd, traffic and public transport services and manpower deployment, with a view to maintaining public safety and public order during the events. In addition, the police will also draw up contingency plans to cope with any unexpected situations that may arise, for example, when the number of participants is higher than expected, in order to ensure that public events are held in a peaceful and orderly manner.

In the course of public meetings and processions, the police will assess the number of participants for the implementation of appropriate crowd management measures and contingency measures for traffic and public transport services, as well as for the deployment of manpower in a flexible manner. The figure concerned is for internal reference only; it is solely for the effective deployment of manpower and the implementation of crowd safety management and traffic management measures to ensure public safety and public order. It has been the police's practice not to take the initiative to announce the estimated figure unless otherwise enquired by individual media organizations.

During a procession, the police will set up observation points along the procession route. The number of participants passing by the observation points will be estimated. With reference also to the duration of the procession, an estimate of participants at the peak period will be made. The police will not specifically make an estimate on the participants who have joined or left the march midway. As a general arrangement, the most senior police officer in charge of an operation of crowd management is responsible for verifying the total number of participants of the event. We have to stress that the figure from the police is not derived from an academic

statistical method. The estimate of the number of participants mainly serves to facilitate the police's formulation of corresponding crowd safety management measures to ensure public order and public safety.

It comes to our attention that independent academic institutions in Hong Kong have been counting the number of participants in large-scale processions over the years and have been providing detailed explanations on their counting methods. Regarding the procession on 1 July this year, the number of participants counted by an academic institution on that day was 66 927, which was very close to 66 000, the approximate figure estimated by the police at the peak period of the procession. To include in the estimate the number of participants who joined or left the march midway, the institution has multiplied the headcount obtained on the day of procession by a parameter, resulting in an adjustment estimation of total participants in the range of 88 000 to 98 000. Separately, another academic institution estimated the total number of participants to be 103 000.

Although the figure estimated by the police was not derived from an academic statistical method, it was very close to the figures of various academic institutions in terms of headcount. The allegation made by some that the police deliberately released a lower number of participants in the procession to mislead the public is absolutely groundless and absurd. I have to reiterate that Hong Kong is a society under the rule of law, and the police have the responsibility to maintain law and order. In performing their duties, the police will take enforcement action in a fair, just and impartial manner, and there is absolutely no political consideration involved.

MR LEUNG KWOK-HUNG (in Cantonese): *President, it is stated in the Secretary's main reply that the figure from the police was not derived from an academic statistical method. It was only a reference figure used for the formulation of corresponding safety management measures. I believe him, but can he release all the reference figures? Besides, can he make public how the police conducted the corresponding risk assessment and thus deployed police*

manpower after obtaining the reference figures? If such information is not confidential, does he intend to release it? I mean the information from 2003 to 2013.

SECRETARY FOR SECURITY (in Cantonese): President, as I have just said in the main reply, the figures estimated by the police only serve as internal reference to facilitate adjustment of the police manpower in each district, so that manpower can be reduced or increased where necessary to dovetail with the conduct of the processions concerned. These internal estimates simply serve as reference. For this reason, the police will not release the relevant details.

Of course, I understand that the Honourable Member may want to know the number of participants in each large-scale activity. In this regard, as I have just pointed out in the main reply, some academic institutions in Hong Kong have been using detailed academic statistical methods to estimate the turnouts in various processions, and the counting methods they use are quite exact. Therefore, in respect of Mr LEUNG's concern, I think if he glances through the news reports after each large-scale procession, he will see detailed reports published by the relevant academic institutions on the estimated number of participants and learn about their statistical methods for counting the number of marchers. Then he may decide on their reference value.

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

MR LEUNG KWOK-HUNG (in Cantonese): *President, his answer cannot be more irrelevant.*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *I asked him for the figures from 2003 to 2013. If the police have really drawn up reference figures as stated by the Secretary, can the Secretary release the reference figures mentioned by him just now, so that we can do monitoring work? What I have said is very clear. He advises that such reference figures are used for maintaining public order and*

public safety. In that case, have the police formulated a ratio of marchers to police manpower, say, a ratio of 100 police officers to 10 000 marchers? We seek to monitor the Government, not academics. I monitor the Government ……

PRESIDENT (in Cantonese): Mr LEUNG, you need not speak at such great lengths any more.

MR LEUNG KWOK-HUNG (in Cantonese): *No, his answer cannot be more irrelevant. I asked whether he could release the information if it was not confidential. But he said it was internal information, so he did not intend to release it. However, is it confidential? Buddy, do not waste my time ……*

PRESIDENT (in Cantonese): Mr LEUNG, you have already repeated your supplementary question. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Just ask him if he has answered my question.*

PRESIDENT (in Cantonese): Please sit down.

SECRETARY FOR SECURITY (in Cantonese): President, we will not release such internal reference figures.

MR LEUNG KWOK-HUNG (in Cantonese): *President, I asked him if the information was confidential, but he replied that it was for internal reference and it would not be released. In that case, can one say that the information is confidential, so it cannot be released?*

PRESIDENT (in Cantonese): The Secretary has explained the nature of such information under the government policy. If you disagree, please follow up on other occasions.

MR LEUNG KWOK-HUNG (in Cantonese): *I asked him if it was confidential. I do not disagree to the Secretary's answer. It is only that you do not agree to let me ask the Secretary.*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. The Secretary has already answered your question.

MR CHAN KIN-POR (in Cantonese): *Many members of the public are highly concerned about the number of participants in the 1 July march, and a number of media organizations also pointed out on the following day that if the organizer released a figure which was way too exaggerated, it would lead to the question of integrity. The number of participants in the 1 July march this year was also quoted during the motion debate in the Legislative Council on 3 July. During the motion debate, some pan-democrats who were more objective said there were "tens of thousands" of people, while a number of Members kept saying there were 430 000 participants. May I ask whether the police will hold negotiations with the organizers on the counting method and jointly release the number of participants, so as to ensure greater credibility of the figures, thereby reassuring members of the public?*

SECRETARY FOR SECURITY (in Cantonese): The police do not have such a plan because there are large numbers of procession activities every day. In fact, it is impossible for us to co-ordinate with each organizer. Besides, regarding this type of large-scale activities, it is rather difficult for the two sides to agree on how to count the number of participants. Even in the examples cited by me earlier, the two academic institutions concerned each adopted a different computation method, and different results were yielded.

Hence, I consider that instead of making efforts on this issue, it will be better for us to hold thorough discussions with the organizers — we have been doing so all the time — on the routes of processions and various major arrangements. Such an approach is much more meaningful. In fact, irrespective of the number of marchers, the only purpose of participants will always be the voicing of their different aspirations. In my view, the more important thing is how we are going to consider and respond to their aspirations after listening carefully to them.

MR WONG TING-KWONG (in Cantonese): *In the march on 1 July this year, at the junction next to the Sogo Department Store, some marchers dashed out to the eastbound lane, causing chaos. Afterwards, the organizer blamed the police for not opening the road. However, according to the police, they had fully negotiated with the organizer and held meetings to discuss such issues in advance. May I therefore ask one question? In the case of any processions of a similar scale in the future, will the police, after discussing with the organizers, announce the particulars and details of their discussions, such as the locations where queue jumping is not allowed due to traffic considerations, so that participants can proceed with the processions in an orderly manner, and the police can be saved any unreasonable accusations?*

SECRETARY FOR SECURITY (in Cantonese): I thank Mr WONG for his supplementary question. Regarding the 1 July march which has just taken place, the police held totally four meetings and conducted three site inspections with the organizer. The organizer also invited observers from the Independent Police Complaints Council to attend these four meetings. After these several meetings, the police held a press conference on 27 June and issued a press release, with a paragraph clearly focusing on the particular situation brought up in Mr WONG's supplementary question just now. Let me quote, "Past experience shows that the part of the procession route outside Sogo Department Store is particularly crowded. When the procession passes Sogo Department Store and Paterson Street, the road crossing zones will be closed for a certain period of time in order to ensure the smooth flow of the procession. Members of the public who wish to go across Yee Wo Street may use the nearby footbridge or the MTR passages." (End of quote)

By raising this point, I wish to point out that based on past experience, the police knew that location would be very crowded, and that some marchers used to jump the queue there, thus affecting the overall progress and order of the procession. For this reason, during the negotiations, the two sides already discussed this point. The press release issued by us even made it a point to explain why we did not allow queue jumping at that location and why we asked participants to cross the road by other paths in order to join the procession on the other side of the procession route. We actually had only one purpose. All along, the enforcement objective of the police is to facilitate the conduct of processions. Therefore we did not want anyone to suddenly jump the queue midway, making the narrow road narrower and the crowded road even more

crowded, with participants waiting to set off at the back having no idea why they were stuck for such a long time. The police already gave this explanation at that time.

As a matter of fact, during the march on that day, the police also found that some people intending to join the procession tried to jump the queue there. As a result, the police advised them to use the footbridge to go to other places for joining the procession. Some chaos did occur at that location during the march. Thus, in handling this kind of processions again in the future, the police will enhance its publicity in this aspect, in the hope that marchers can maintain good order and the processions can proceed smoothly.

MR RONNY TONG (in Cantonese): *President, queue jumping midway, especially queue jumping in Causeway Bay, was a focus of dispute in every 1 July march after 2003. This year, the controversy escalated, and a radio programme host was even forcibly removed by the police. President, the Secretary mentions in the main reply that the police would not specifically make an estimate on the participants who joined the march midway. The question is: if the police had not made such an estimate, how could they have determined that people who joined the procession in Causeway Bay would seriously affect the progress of the march? I find it hard to understand this point. I also wish to know whether the Secretary agrees that any arbitrary attempts to stop the public from joining the procession are tantamount to depriving them of their basic right to procession.*

SECRETARY FOR SECURITY (in Cantonese): Based on past experience, the police knew that since the location was very narrow, in case large numbers of marchers jumped the queue there, a "bottleneck" would emerge, thus causing severe congestion and confusion. The police made this judgment based on past experience. As Mr TONG also mentioned just now, such a situation did occur before. Thus, the police made it a point to say that they did not want members of the public to join the procession at that location. Frankly speaking, given such a long procession route, members of the public could actually join the procession at many other places along the route, and they could also leave at any of the road junctions anytime. With this consideration, after our study, we decided that we should not let members of the public join the procession at that location. This is my reply to Mr TONG's first supplementary question.

Mr Ronny TONG raised another supplementary question. Could he repeat it?

MR RONNY TONG (in Cantonese): *I asked only one supplementary question. Since the police would not estimate the number of people who joined the march midway, I asked in my supplementary question how the police could, in the absence of such estimation, decide to forbid people to join the procession at that location. If the police will always refuse to let people join the march at that location regardless of the number of participants, can I ask whether such a decision is a violation of people's basic right to procession?*

PRESIDENT (in Cantonese): Please let the Secretary reply.

SECRETARY FOR SECURITY (in Cantonese): I thank Mr TONG for raising his supplementary question again. Why did the police do so at that place? The decision was made with reference to past experience and actual cases. Since that road section was very narrow, a large influx of people into that place would inevitably result in congestion. That is why the police made this decision. It may be said that such a decision was related to the estimation of the number of participants who would join the procession there, and it may also be said that the two were not directly related. The key point is that we did not wish members of the public to join the procession at that location in the light of our past practical experience.

As for whether such an act is tantamount to depriving members of the public of their right to procession, I am afraid I cannot agree to Mr TONG's view. The reason is that even though members of the public cannot join the procession directly at that location, they can readily join the procession if they go across the footbridge or use the MTR passages underground. Moreover, they can also join the procession at the next few junctions. Thus, one simply cannot say that if people do not jump the queue there, they will be unable to join the march. Hence, I am afraid I cannot agree to the argument raised by Mr TONG.

PRESIDENT (in Cantonese): There are still 10 Members waiting for their turns to ask questions, but this Council has spent nearly 24 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Handling of Complaints by Fire Services Department

7. **MR CHAN KAM-LAM** (in Chinese): *President, recently, a newspaper has reported that, upon receipt of an email complaining about problems in the fire service equipment in the building where the office of that newspaper is situated, the Fire Services Department (FSD) had deployed officers to inspect the premises, without first contacting the complainant to gather more information. As a result, the normal operation of that media organization was affected, but the complaint was later confirmed to be a false report. Regarding the FSD's handling of complaints and reports, will the Government inform this Council:*

(a) of the number of complaints or reports received by the FSD in each of the past three years; the current procedure of FSD for handling complaints and reports, and whether verification of the identities of the complainants and informants as well as the relevant matters are included in such procedure; if so, of the details; if not, the reasons for that;

(b) of the number of complaints or reports received by the FSD through emails in each of the past three years, as well as the fire safety problems and types of buildings mainly involved in such complaints and reports; how the FSD verified the contents of such complaints and reports;

(c) of the number of inspections carried out in each of the past three years by the FSD arising from the complaints or reports received, the effectiveness of such inspections and, among such inspections, the number of prosecutions instituted;

(d) of the specific procedures followed by the FSD from receipt of a complaint to the making of a decision to conduct an inspection; whether FSD will notify the occupier of the relevant premises before deploying officers to inspect such premises, and whether the FSD will conduct such an inspection without affecting the occupier; if not, of the reasons for that; and

(e) whether the FSD has put in place a mechanism for penalizing those people who make false reports or abuse the complaint mechanism; if it has, of the details; if not, the reasons for that?

SECRETARY FOR SECURITY (in Chinese): President, with the mission of "serving to save", the FSD protects the lives and properties of the public from fire or other calamities. To this end, the FSD gives advice on fire protection measures and fire hazards to the public, building owners and occupiers of premises, and so on, and educates the public to raise fire safety awareness. It also inspects the means of escapes and fire service installations and equipment (FSIs), and so on, in buildings and premises. With the efforts of the FSD and the co-operation of the public, the number of fires in Hong Kong in the past five years decreased by about 25% from around 8 200 in 2008 to some 6 100 in 2012. The number of fires at Alarm No. 3 or above has decreased by about 28%, from 18 in 2008 to 13 in 2012.

One of the major duties of the FSD is to abate fire hazards, which includes taking follow-up actions upon receipt of complaints of fire hazards in order to minimize the risk of fire and ensure the safety of lives and properties of the public.

The Administration's reply to the various parts of the question is as follows:

(a) to (d)

In the past three years (that is, from 2010 to 2012), the FSD received 9 971, 11 746 and 10 922 cases of complaint about fire hazards respectively. Among them, 1 311, 1 331 and 1 832 cases were related to problems of FSIs in various types of buildings (including composite, domestic, commercial and industrial buildings, and so on). Other complaints or reports include obstructions to means of escape of the buildings, locked exits of the buildings and excessive storage of dangerous goods, and so on. Those complaints were usually made through letter, telephone or email. The department does not maintain statistics of complaints made through email.

The statistics of inspections and enforcement actions taken by the FSD regarding FSIs in the past three years are as follows:

Year	*Number of inspections conducted regarding FSIs*	*Number of Fire Hazard Abatement Notice issued regarding problems of FSIs*	*Number of prosecutions instituted regarding problems of FSIs*
2010	146 505	2 046	31
2011	145 756	2 036	25
2012	155 146	2 086	7

Regarding the inspections and enforcement actions mentioned above, some were made in response to complaints about fire hazards, some were made in relation to problems of installations and equipment indicated in the Certificate of FSIs, whereas some were made in respect of matters relating to licence applications, and so on. The department does not maintain statistics specifically on the number of inspections and prosecutions instituted arising from complaints.

In general, the Licensing and Certification Command of FSD is responsible for follow-up actions and inspections regarding fire hazard complaints about FSIs. The FSD will handle these complaints in accordance with the established mechanism. If the information provided by the complainant contains specific matter and address for following up, an investigation will be conducted to ensure fire safety of the concerned building or premises regardless of whether the complaint is anonymous or not. If the information provided by the complainant is insufficient or unclear (for example, detailed address is not given or the content of the fire hazard complaint is unclear), the FSD will first approach the complainant through the means of contact provided in order to obtain more details before arranging an inspection. In case the FSD is unable to contact the complainant or obtain specific information from the complainant, the department will regard the complaint as a case that cannot be pursued and thus cease the investigation.

Generally speaking, lack of maintenance of FSIs or problems of FSIs is classified as a fire hazard complaint not posing imminent danger. In accordance with the FSD's performance pledge, an investigation will be conducted within 10 working days upon receipt of such a complaint.

When handling complaints about fire hazards, the prime consideration of the FSD is protection of lives and properties of the public. In accordance with the established practice, the department will deploy fire services officers to conduct an on-site inspection. In light of judicial justice, the fire services officers will not inform the persons being complained before conducting the inspection. In the course of investigation, if the responsible person of the premises is unable to make suitable arrangement for the inspection (for example, the premises have been locked and the key has to be obtained from other sources, and so on), the department would, in light of the circumstances of individual cases (for example, the degree of urgency and seriousness of the related fire hazards), exercise its discretion (for example, to conduct an inspection again after the key of the premises has been obtained).

(e) Upon receipt of a complaint about fire hazards, the FSD will handle it in accordance with the above established mechanism. Generally speaking, the FSD can hardly ascertain the motives of the complainant, and whether the complaint was made out of his/her concern about fire safety, misunderstanding or malicious intent. However, in case the FSD has reasonable doubt that the complaint is of malicious intent, for example, the same address was involved in a number of continual false complaints, the investigation of which might waste the time of public officers, then the FSD would refer the case to the police for follow-up actions.

Support for Persons who are Both Legislative Council Members and District Council Members

8. **MISS CHAN YUEN-HAN** (in Chinese): *President, at present, quite a number of Legislative Council Members are also serving as District Council*

(DC) members (Members with dual membership). However, as the meeting schedules of these two Councils frequently clash, such Members have often found it difficult to attend the meetings of both Councils. In this connection, will the Government inform this Council:

(a) of the numbers of Members with dual membership in the current term and the past three terms of Legislative Council (set out in the table below);

Legislative Council	*Number of Legislative Council Members returned by geographical constituencies*	*Number of Legislative Council Members returned by functional constituencies*	*Total*	*Percentage in the total number of Legislative Council Members*
Second				
Third				
Fourth				
Fifth				

(b) of the situations of Members with dual membership being absent from full meetings of the two Councils from 1 October last year to 30 June this year:

(i) of the highest number of times of absence from Legislative Council meetings among the Legislative Council Members returned by geographical constituencies (GCs), and the absence rate of the Member concerned;

(ii) of the highest number of times of absence from Legislative Council meetings among the Legislative Council Members returned by functional constituencies (FCs) and the absence rate of the Member concerned;

(iii) of the highest number of times of absence from DC meetings among the Legislative Council Members returned by GCs and the absence rate of the Member concerned; and

(iv) of the highest number of times of absence from DC meetings among the Legislative Council Members returned by FCs and the absence rate of the Member concerned;

(c) whether the authorities have conducted studies and surveys on the difficulties encountered by Members with dual membership when performing the duties of the two Councils, so as to understand their situations and collect their views; if they have, of the details; if not, whether they will expeditiously conduct such studies and surveys with a view to making improvements;

(d) given that currently Legislative Council Members returned by the two FCs of DC must be DC members and that the meeting schedules of Legislative Council and DC frequently clash, whether the authorities have assessed the impacts of such a situation on the operations of the two Councils; if they have, of the details; if not, the reasons for that; and

(e) given that Members returned by the DC (Second) FC (commonly known as "super DC members") not only need to attend to both the businesses of Legislative Council and DC, but also need to serve over three million voters who do not have voting right in other FCs, whether the authorities will, in the long run, review the functions of, the difficulties faced by and the resources issues for Members of this FC, so as to provide more support for Members of this FC in future?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, the Legislative Council of the Hong Kong Special Administrative Region (HKSAR) is the legislature of the HKSAR. Legislative Council Members are returned by election in accordance with the Legislative Council Ordinance. The 18 DCs are important local consultative bodies and their composition is specified under the District Councils Ordinance. The Legislative Council and the 18 DCs have their respective unique functions and roles in the political structure of the HKSAR, it is inappropriate and unsuitable for the Administration as the executive branch to comment on the performance of the Legislative Council, the 18 DCs, or individual Members.

The Administration's reply to the five parts of the question is as follows:

(a) According to information provided by the Home Affairs Department (HAD), the numbers of Legislative Council Members who are/were also DC members in the current term and the past three terms of Legislative Council are set out in the table below:

Legislative Council	*Number of Legislative Council Members returned by GCs*	*Number of Legislative Council Members returned by FCs*	*Total*	*Percentage in the total number of Legislative Council Members*
Second Term (Overlapping period with the First Term DC, that is, from October 2000 to December 2003)	11	8	19	32%
Third Term (Overlapping period with the Second Term DC, that is, from October 2004 to December 2007)	10	8	18	30%
Fourth Term (Overlapping period with the Third Term DC)				
(i) from October 2008 to March 2011	12	4	16	27%

Legislative Council	*Number of Legislative Council Members returned by GCs*	*Number of Legislative Council Members returned by FCs*	*Total*	*Percentage in the total number of Legislative Council Members*
(ii) from April 2011 to December 2011 (Note: One Legislative Council Member no longer held DC office from April 2011)	12	3	15	25%
Fifth Term (Overlapping period with the Fourth Term DC, that is, from October 2012 till now)	10	9	19	27%

(b) According to information provided by the Legislative Council Secretariat, from 1 October last year to 30 June this year (in total 9 months), among the Legislative Council Members who are at the same time DC members, information regarding the Member who has the highest number of times of absence from Legislative Council meetings is set out below:

	Highest number of times of absence from Legislative Council meetings (absence rate)
Legislative Council Members returned by GCs and at the same time DC members	2 times (6%)
Legislative Council Members returned by FCs and at the same time DC members	5 times (15%)

According to information provided by the HAD, from 1 October last year to 30 June this year (in total nine months), among the DC members who are at the same time Legislative Council Members, information regarding the member who has the highest number of times of absence from DC meetings is set out below:

	Highest number of times of absence from DC meetings (absence rate)
DC members and at the same time Legislative Council Members returned by GCs	2 times (50%)
DC members and at the same time Legislative Council Members returned by FCs	1 time (17%/20%/25%) (Note: more than one DC members were absent from one DC meeting. As different DCs have different numbers of meetings held, one member has an absence rate of 25% while other members have an absence rate of 20% or 17%)

(c) The Administration has not conducted and will not conduct studies or surveys described in part (c) of the question.

(d) The HAD has indicated that the 18 DCs in general do not hold their DC meetings on Wednesday. Therefore, the meeting schedules of Legislative Council and DC usually do not clash. Nevertheless, the

Legislative Council and 18 DCs have full discretion to decide on their own matters, including the dates of meetings and other administrative arrangements, in accordance with the relevant legislation. The Administration will continue to respect the decisions and arrangements made by the Legislative Council and the 18 DCs in performing their duties.

(e) For the remuneration package of Legislative Council Members, the Administration Wing has advised that in reviewing the remuneration package for the Members of the Fifth Term Legislative Council, the Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of the Hong Kong Special Administrative Region (Independent Commission) has considered whether Members to be returned by the then newly established District Council (second) functional constituency (DC (second) FC) should be accorded a different arrangement. After considering the relevant factors carefully, the Independent Commission concluded that Legislative Council Members returned from GCs and FCs (including those returned from the DC (second) FC) should be entitled to the same remuneration package on grounds that they are exercising the same constitutional powers and functions under the Basic Law.

Phase-out of Incandescent Light Bulbs

9. **MR YIU SI-WING** (in Chinese): *President, in order to encourage the retirement of incandescent light bulbs (ILBs) and replacement by more energy-efficient lighting products (for example, compact fluorescent lamps (CFLs)), the Environment Bureau rolled out last month an Energy Saving Charter on "No Incandescent Light Bulbs". By signing the Charter, suppliers and retailers pledge to stop replenishing stock of specified ILBs, and to stop selling such light bulbs by the end of this year. However, it has been reported that some research studies have found out that the gas released by CFLs when they break contains mercury and phenol, which is harmful to human body, and the strong ultraviolet radiation emitted from CFLs may also cause skin cancer. In this connection, will the Government inform this Council:*

(a) whether the authorities have assessed, before rolling out the Energy Saving Charter, the impact of the light rays emitted from CFLs on the health conditions of photosensitive patients (for example, patients suffering from Lupus Erythematosus); whether, after the sale of ILBs has completely stopped, safe lighting products will be available on the market for these patients to choose; if so, of the details; if not, the reasons for that;

(b) apart from disposing of spent CFLs from government departments at the Chemical Waste Treatment Centre (CWTC) in Tsing Yi and encouraging the relevant recycling activities, what specific measures the authorities have put in place to properly dispose of spent CFLs, so as to prevent the toxic substances released by spent CFLs from causing harm to the health of the public and cleaners; and

(c) how the authorities will promote and educate the public on the correct use of CFLs and the risks involved, and how they will teach the public the safe way to clean up broken CFLs safely?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(a) In the past decade, lighting on average accounted for around 15% of total electricity consumption in Hong Kong. Incandescent light bulb (ILB) are not energy-efficient as 90% of the electricity consumed is lost as heat whereas only 10% is used for lighting. The Energy Saving Charter on "No ILB" rolled out by the Environment Bureau aims to encourage relevant suppliers and retailers to stop selling energy-inefficient ILB by the end of 2013. The Charter currently covers non-reflector type ILB of 25 watt or above, which operates at a single phase electricity supply of nominal voltage of 220 volts, including general lighting service lamps, candle shape, fancy round and other decorative lamps, but excluding tungsten halogen lamps. Regarding alternatives, overseas countries and Hong Kong commonly adopt energy-efficient compact CFL and Light Emitting Diode (LED) lamps to replace ILB. Although tungsten halogen lamps are not as energy-efficient as compact fluorescent lamps (CFL), they save about 30% of electricity as compared to common types of ILB and are therefore not covered at

the present stage in the recommended types of ILB the sale of which should be stopped.

Regarding the potential health effect of lights emitted from CFL, overseas authorities (including the Scientific Committee on Emerging and Newly Identified Health Risks of the European Commission, Health Canada and the Health Protection Agency of England) have conducted relevant studies and the results showed that ultraviolet levels from CFL with a distance of 30 cm or above are unlikely to pose significant health risk to the general public. For people who suffer from light sensitive conditions, they have to be cautious in using CFL, and be aware of their body conditions and consult medical professionals if necessary. Besides, people who suffer from light sensitive conditions have to be aware of their body conditions when exposed to sunlight.

(b) and (c)

At present, the disposal of CFL in large quantity must comply with the Waste Disposal (Chemical Waste) (General) Regulation. The CFL should be properly packed and labelled, and collected by licensed chemical waste collectors for delivery to the CWTC at Tsing Yi for treatment. Although the amount of CFL disposed of by individual domestic consumers will not reach a level requiring them to be deemed as chemical waste, in order to encourage public participation in recycling, the industry has launched the Fluorescent Lamp Recycling Programme (FLRP) with support from the Environmental Protection Department (EPD) to receive CFL from domestic consumers free of charge. The CFL will then be delivered to the CWTC at Tsing Yi collectively for proper treatment.

CFL contains materials including metal, glass and a tiny amount of mercury. Fluorescent lamps do not affect the human body and the environment when they are intact. When such lamps break, a small amount of mercury vapour will be released and they should be handled with care. With good ventilation, mercury vapour will be diluted very soon. Therefore, under normal circumstances, the transport and disposal of CFL will not affect the health of the public or the waste disposal staff. The EPD has issued guidelines on

disposal of CFL to remind the public to place used fluorescent lamps in the packaging of new lamps before depositing them into collection boxes for recycling, and to take safety measures when handling broken lamps. These guidelines have been issued to housing estates and public collection points participating in the FLRP, and uploaded onto the EPD website <https://www.wastereduction.gov.hk/en/household/flrp_faq.htm>.

Provision of Social Welfare Services for Hong Kong Elderly People Residing on the Mainland

10. **MR WONG KWOK-KIN** (in Chinese): *President, it is learnt that due to the appreciation of Renminbi and continuous rise of commodity prices on the Mainland in recent years, more and more Hong Kong elderly people who had moved to and settled on the Mainland have returned to Hong Kong for resettlement and admission to local residential care homes for the elderly (RCHEs). Although the Social Welfare Department (SWD) intends to introduce a scheme within this year to allow eligible Hong Kong elderly people who have moved to and settled in Guangdong Province to continue to receive the Old Age Allowance without requiring them to return to Hong Kong, such elderly people are still unable to enjoy other welfare benefits in Hong Kong, such as elderly healthcare vouchers and Old Age Living Allowance (OALA). In this connection, will the Government inform this Council:*

(a) whether it knows the number of elderly people returning from various provinces on the Mainland to Hong Kong for resettlement in each of the past three years, as well as the respective percentages of such numbers in the total number of Hong Kong elderly people who had moved to and settled on the Mainland;

(b) among the elderly people who had returned to Hong Kong from the Mainland for resettlement in the past three years, of the number of those who had sought assistance from the SWD after returning to Hong Kong, such as applying for Comprehensive Social Security Assistance (CSSA) and for admission to subsidized RCHEs, together with a breakdown by type of assistance sought;

(c) whether the authorities have analysed the reasons for Hong Kong elderly people returning from the Mainland for resettlement in Hong Kong, and assessed the impact of their return to resettle in Hong Kong on the demand for social welfare services in Hong Kong; if they have, of the details; if not, the reasons for that;

(d) given that there are quite a number of RCHEs on the Mainland at present which are operated by non-governmental organizations in Hong Kong for accommodating elderly people from Hong Kong, but their occupancy rates have persistently remained on the low side, whether the authorities have considered including such RCHEs in the Enhanced Bought Place Scheme, with a view to, on the one hand, providing more choices to the elderly people waiting for admission to subsidized RCHEs and, on the other, providing services to those Hong Kong elderly people who have moved to and settled on the Mainland; and

(e) given that Hong Kong elderly people who have moved to and settled on the Mainland are entitled to neither the medical benefits and social services on the Mainland nor certain social welfare benefits in Hong Kong, whether the authorities will expeditiously study the feasibility of providing OALA to elderly people residing in Guangdong and, in the long run, consider providing such elderly people with the social welfare benefits enjoyed by local elderly people, such as elderly healthcare vouchers and community care service vouchers for the elderly; if they will, of the relevant study and timetable?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to the question raised by Mr WONG Kwok-kin is as follows:

(a) and (b)

The Administration has not compiled any statistics on the number of elderly people returning from various provinces on the Mainland to Hong Kong for resettlement each year. Under the Portable Comprehensive Social Security Assistance (PCSSA) Scheme, recipients residing in Guangdong or Fujian may receive CSSA

therein. As at the end of April 2013, there were 2 167 cases under the PCSSA Scheme. In the past three years, the number of cases of PCSSA recipients who chose to return to Hong Kong for resettlement and continued to receive CSSA is as follows:

Year	*2010-2011*	*2011-2012*	*2012-2013*	*2013-2014 (as at May 2013)*
Number of cases	110	121	114	17

At present, elderly persons with proven needs for long-term care services as assessed under the SWD's Standardised Care Needs Assessment Mechanism for Elderly Services would be provided with appropriate subsidized community care services and/or residential care services (RCS). In assessing the long-term care needs of elderly persons, the SWD does not require the applicants to state whether they have resided on the Mainland before. As such, the SWD has not compiled records of the number of applications for subsidized RCS by elderly persons who returned from the Mainland.

Upon return to Hong Kong from the Mainland, elderly persons may approach District Elderly Community Centres, Social Security Field Units, Integrated Family Service Centres or Integrated Services Centres for assistance. The services provided by these service units include provision of information, counselling, emergency assistance, supportive group, referral service, and so on. When the SWD provides the services, the applicants are not required to state whether they have resided on the Mainland before. The SWD therefore has not compiled any statistics on the number of elderly persons concerned.

(c) As we understand it, when elderly persons residing on the Mainland consider whether to resettle in Hong Kong, they will take into consideration various factors, including family needs, personal and family's financial situation, comparison of living standard and environment between the Mainland and Hong Kong, and so on, and some of them choose to resettle in Hong Kong when their health conditions deteriorate.

As mentioned in parts (a) and (b) above, when the SWD now provides various services to the applicants, it does not require them to state whether they have resided on the Mainland before. The SWD therefore has not studied the impact on the demand for social welfare services in Hong Kong arising from Hong Kong elderly persons returning from the Mainland.

(d) At present, there are two elderly homes operated by Hong Kong non-governmental organizations on the Mainland. These two elderly homes are located at Yantien and Zhaoqing respectively. We will explore the feasibility of providing the elderly applicants with proven needs for RCS under the assessment mechanism an option to live in the two homes.

(e) The SWD will implement the Guangdong Scheme by this November to provide Old Age Allowance for eligible Hong Kong elderly people who choose to reside in Guangdong. After implementing the OALA and the Guangdong Scheme for a period of time, we will explore the feasibility of allowing elderly people who choose to reside in Guangdong to receive OALA there.

The Pilot Scheme on Community Care Service Voucher for the Elderly (Pilot Scheme) will last for four years, and the first phase (lasting for two years) will be implemented this September. The Pilot Scheme aims to test the viability of the "money-follows-the-user" new funding mode in Hong Kong. The Administration at this stage has no plan to implement the Pilot Scheme on the Mainland.

At present, the Elderly Health Care Voucher is only applicable to elderly persons receiving private primary care services provided by Hong Kong registered healthcare professionals in the territory. The Administration at this stage has no plan to extend the Elderly Health Care Voucher to healthcare services provided outside Hong Kong. The Administration will further review the scheme at an opportune time when the enhancements to the scheme have been implemented for a period of time.

New Arrangements for Tackling Under-occupation in Public Rental Housing

11. **MR LEUNG YIU-CHUNG** (in Chinese): *President, last month, the Subsidised Housing Committee (SHC) of the Hong Kong Housing Authority (HA) endorsed the new arrangements for tackling under-occupation (UO) in public rental housing (PRH), which will take effect from this October. Under the new arrangements, the threshold for one-person "Prioritized UO households" will be adjusted downwards from 34 sq m to 30 sq m, and the thresholds for households of other sizes will also be adjusted downwards accordingly. UO households with living space exceeding the relevant thresholds are required to transfer to PRH flats of appropriate size. Moreover, UO households with disabled members or elderly members aged 70 or above are not required to transfer. Other UO households with members aged between 60 and 69 will be placed at the end of the transfer list. Some PRH residents have pointed out that the HA has revised the transfer policy for UO households without consultation, which not only is against the principle of democracy but also has brought about significant impact on elderly PRH residents. In this connection, will the Government inform this Council:*

(a) of the number of UO households with elderly members aged between 60 and 69, together with a breakdown by housing estate;

(b) whether the HA will hold the new arrangements in abeyance temporarily and conduct consultation on such arrangements; if it will not, of the reasons for that;

(c) whether it has assessed if the new arrangements, which will force the elderly aged between 60 and 69 to move out of their residence where they have lived for many years, have violated the elderly-care principle of ageing in place; if the assessment result is in the negative, of the justifications for that;

(d) whether the authorities have considered what difficulties UO households with elderly members aged between 60 and 69 will encounter with the transfer; how the authorities will help them overcome such difficulties, including whether these households will be exempted from the transfer; if they will, of the criteria adopted; if not, the reasons for that; and

(e) whether the authorities will consult PRH residents before further tightening the thresholds for Prioritized UO households in future; if they will, of the consultation procedures; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, PRH is a precious social resource heavily subsidized by public funds. To ensure the rational use of PRH resources, it is the HA's established policy to require those households with living space exceeding the prescribed UO standards to move to another PRH flat of more appropriate size. The existing UO standards are as follows:

Family Size (Person)	*1*	*2*	*3*	*4*	*5*	*6*
Internal Floor Area (IFA) exceeding (sq m)	25	35	44	56	62	71

The Audit Commission (AC) undertook a study on the UO problem in 2006-2007 and recommended a phased approach to deal with the UO cases and to take enforcement actions against those households who refused to transfer. Having considered the AC's recommendations and the overall demand and supply of PRH flats, the HA endorsed in 2007 various measures to deal with the UO cases in order of priorities, that is, to begin with handling those Most-serious UO (MUO) households (now known as Prioritized UO (PUO) households) of living density exceeding 35 sq m per person and without elderly or disabled family members. Thereafter, the HA reviewed the relevant policy in 2010 and endorsed the continuation of a phased approach to deal with the UO cases and lowered the MUO households (now known as PUO households) threshold from living density exceeding 35 sq m to 34 sq m per person.

Recently, the HA conducted a further review on the UO policy in June 2013 and endorsed a series of revised measures to continue the phased approach to handle the UO households in PRH. Under the revised measures, households with disabled or elderly members aged 70 or above will be excluded from the UO list, and those with elderly members aged between 60 and below 70 will continue to be placed at the end of the UO list in the order for transfer until the next review. As the HA will arrange for transfers for the UO households to PRH flats of more appropriate size in accordance with their order on the UO list, transfers will not be arranged for those placed at the end of the UO list in the short term. Also, the HA renamed MUO households as PUO households, and

redefined it as those with living space (according to family size) exceeding the prescribed IFA and without elderly family members aged 60 or above. The PUO standards are as follows:

Family Size (Person)	*1*	*2*	*3*	*4*	*5*	*6*
IFA exceeding (sq m)	30	42	53	67	74	85

PUO households would be given (i) a maximum of three housing offers in the residing estate or estates in the same District Council constituency area, (ii) Domestic Removal Allowance (DRA) upon transfer to smaller flats; and (iii) transfer opportunities to flats of newly completed estates subject to availability of resources. They could be subject to termination of tenancy if all the three offers are refused without reasonable grounds. As for the non-PUO households(1), we have no deadline for transfer at present. However, they can opt for voluntary transfers to PRH flats of more appropriate size before the HA arranges transfers for them, irrespective of their order of transfer, to suit their needs and be given DRA as well as offer of flats in newly completed estates, subject to availability of resources. The revised measures will take effect from 1 October 2013 and a further review will be conducted after three years of implementation.

My reply to the five-part of the question raised by Mr LEUNG Yiu-chung is as follows:

(a) As at end March 2013, there are about 13 000 UO households with family members aged between 60 and below 70, distributed in various PRH estates. The number of households by each management region is as follows:

Management Region	*Number of UO Households with elderly members aged between 60 and below 70*
Kwai Chung	1 500
Kowloon East	1 700
Kowloon West and Hong Kong	2 500
Tuen Mun and Yuen Long	2 200
Tai Po, North, Sha Tin and Sai Kung	2 100

(1) Including (i) UO households with elderly members aged between 60 and 69 (irrespective of their living space); and (ii) other UO households not reaching the threshold of PUO.

Management Region	*Number of UO Households with elderly members aged between 60 and below 70*
Wong Tai Sin, Tsing Yi, Tsuen Wan and Islands	3 000
Total	13 000

As mentioned above, they will be placed at the end of the UO list until next review.

(b) When formulating and reviewing the UO policy, the HA has all along been open-minded and held meetings with relevant concern groups and tenants to listen to their views. The SHC of the HA, at its meeting in June this year, conducted a comprehensive review of the UO policy in which the views of the concern groups and the tenants were discussed and considered in details. Given the fact that PRH resources are precious and heavily subsidized by public funds, the HA decided to implement the revised measures to ensure a fairer and more rational allocation of PRH resources to meet the aspirations of the community at large.

To tackle the UO problem in a phased manner, the HA would handle those MUO households (now known as PUO households) with priority. The Government consulted the Legislative Council Panel on Housing in 2007 on measures to tackle UO, and reported to the Panel in 2011 that the MUO households (now known as PUO households) threshold had been lowered from living density exceeding 35 sq m to 34 sq m per person. The relevant measures were generally supported by the Members.

At present, as most of the PUO cases with living density exceeding 34 sq m per person have been handled, in order to continue handling the UO households in a phased manner, the HA has to further revise the PUO households threshold, such as lowering the threshold for one-person households to living density exceeding 30 sq m (detailed above). Indeed, the present revised measures are basically continuation of the previous revision to the threshold of MUO households (now known as PUO households).

(c) and (d)

The HA has all along adopted a flexible approach in dealing with the UO households with elderly members in order to minimize inconvenience caused arising from transfer. Under the revised measures, UO households with elderly members aged between 60 and 69 will continue to be categorized as non-PUO households and be placed at the end of the UO list for transfer.

The HA would first handle the PUO households in the coming three years. However, if those non-PUO households opt for voluntary transfer in advance, they will be provided with DRA. If they have problem on removal, the Housing Department would liaise with the Social Welfare Department and other non-governmental organizations to provide appropriate assistance.

(e) As mentioned above, the HA has all along been open-minded in collecting views from the community and to exchange views with the stakeholders when formulating and reviewing the UO policy. The SHC has discussed the policy and the views collected in details under a pragmatic approach at its meetings. The revised measures will be further reviewed after three years of implementation. By then, we would conduct an overall review on the effectiveness of the revised measures, taking into account tenants' aspirations, views of the stakeholders as well as the demand and supply of PRH, and so on, in order to determine the way forward of the UO policy.

Services of MTR West Rail Line and Light Rail

12. **MR LEUNG CHE-CHEUNG** (in Chinese): *President, many residents in North West New Territories have relayed to me their dissatisfaction with the train services of the MTR West Rail Line (WRL) and the Light Rail (LR). In this connection, will the Government inform this Council if it knows:*

(a) given that some residents have pointed out that the train frequency of WRL during night-time cannot meet the demand, resulting in passengers at the intermediate stations often finding it difficult to board the first arriving train heading towards Tuen Mun, the

respective starting and ending time of the peak and off-peak hours for train services of WRL; the average patronage and the carrying capacity of the trains of various time slots;

(b) given that the trains of WRL currently run at a frequency of approximately six to seven minutes during off-peak hours, whether the MTR Corporation Limited (MTRCL) will increase the train frequency of that time slot; if the MTRCL will not, the circumstances under which the train frequency will be increased;

(c) given that some residents have relayed that the demand for train services in districts along WRL continues to rise, whether the MTRCL will consider increasing the number of train cars of WRL from seven to nine which is the original design standard; if the MTRCL will not, the circumstances under which the number of train cars will be increased;

(d) the respective starting and ending time of the peak and off-peak hours for services of various LR routes at present; the average patronage and the carrying capacity of the trains of various time slots; the details of operating various LR routes with single-carriage or two-carriage trains;

(e) as the new fare table issued by the MTRCL shows that starting from 30 June this year, the Single Journey fares are lower than their corresponding Octopus fares for more than 1 300 fare combinations of LR, with differences ranging from $0.1 to $0.5, the causes for such differences; whether there is any solution and its implementation timetable; and

(f) as LR is the main mode of transport providing connection for passengers of WRL to and from various locations in North West New Territories, but the last train-departure time of certain LR routes cannot cater for the needs of passengers of the last train of WRL, the details of these LR routes and the causes for this situation; whether the MTRCL will consider extending the service hours of the relevant routes?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, currently, the MTRCL has already taken passengers' travelling patterns and patronage of different areas and stations into consideration when drawing up the service timetable for each railway line. This is to ensure that railway service meets passengers' demand. As observed, railway service in general can meet passengers' demand, and most passengers are able to board the first arriving train.

My reply to Mr LEUNG Che-cheung's question is as follows:

(a) to (c)

The MTRCL has all along been closely monitoring the service level and passengers' demand of WRL. WRL patronage is higher during the climax of peak hours, but generally it can still cope with passengers' need. In 2012, the carrying capacities per hour in one direction during morning and evening peak hours are 46 900 and 40 100 passenger trips respectively. The average train loading(1) during morning peak hours on weekdays (from 6.30 am to 9 am) is around 70%, while that of the evening peak hours on weekdays (from 4.30 pm to 7.30 pm) is around 56%. The current loading can cope with passengers' need.

The MTRCL is dedicated to providing safe, comfortable and efficient train services for passengers. The train service enhancements under the "Listening • Responding" programme in 2012 brought the total number of additional train trips a year to 62 000, with an increase of 150 million passenger trips in carrying capacity. For WRL, the train trips have increased by 188 weekly from 2 963 to 3 151 since late August last year. Currently, the train frequency during morning peak hours on weekdays is three minutes; train frequency during evening peak hours on weekdays has been enhanced from four minutes to three and a half minutes. Train frequency during non-peak hours has also been enhanced from six to nine minutes to six to seven minutes.

(1) Based on the hourly passenger flow between the two busiest stations of the railway line. The train loading is calculated according to the carrying capacity derived from the prevailing actual train frequency and passenger flow per hour.

Besides, the MTRCL has also commenced the Shatin-to-Central Link project. When its Tai Wai to Hung Hom Section is in service in 2018, the existing Ma On Shan Line will connect with WRL via East Kowloon to form the "East West Corridor". After the commissioning of the "East West Corridor", the number of train compartments of WRL will gradually increase from seven to eight. By then, the entire carrying capacity of WRL can be further enhanced.

(d) As the LR adopts an open design, there may be Light Rail vehicles (LRVs) of more than one route calling at the same stop. There is therefore no information on which route a passenger will take after he/she purchases a ticket or validates his/her Octopus card at a stop. The train loading figures of the LR are obtained through observation surveys conducted by the MTRCL. In 2012, the average train loading during morning peak hours (from 7 am to 8 am) for LR is around 85%. The MTRCL did not conduct surveys for the train loading during non-peak hours. The hourly carrying capacity and arrangement of single or coupled-set LRVs of each LR route are at Annex.

(e) There are two fare charts in the LR fare system. Octopus fares are divided into eight levels (after the fare adjustment on 30 June 2013, adult Octopus fares range from $4.1 to $6.5; concessionary fares range from $2 to $3.2) and calculated depending on the number of stops passed-by. Single Journey Ticket fares are calculated based on zones, and there are three levels of fare among six fare-zones (adult fares are $4.5, $5.5 and $6.5; concessionary fares are $2, $2.5 and $3). As the two fare charts are totally different, there are circumstances where the Single Journey Ticket fare is lower than the Octopus fare. The MTRCL will look into a solution to deal with this problem in the long term.

In calculating individual fares, the MTRCL has all along applied the following guiding principles:

(i) adjustments to Octopus fares are in units of 10 cents; and

(ii) adjustments to Single Journey Ticket fares are in units of 50 cents (as MTR Ticket Issuing Machines accept coins with value of 50 cents, 1 dollar, 2 dollars, 5 dollars and 10 dollars).

The MTRCL advised that due to the differences in the units of adjustment to Octopus fares and Single Journey Ticket fares, the percentage increase of some Single Journey Ticket fares (most of which are Elderly or Child Concessionary Single Journey Tickets) would be quite high with a 50 cents adjustment when the above principles are applied in the calculation of individual fares. Thus, the MTRCL often decided not to adjust these Single Journey Ticket fares.

However, such arrangement has created a phenomenon that some Octopus fares are higher than the corresponding Single Journey Ticket fares. The Government has expressed its concerns over these cases to the MTRCL. In response, the MTRCL advised that it would proactively follow up. It further pointed out that if the Single Journey Ticket fares were adjusted to a level higher than the Octopus fares in one go, the increase rate might be too high and the public might not accept.

The MTRCL has made improvement on this aspect during the fare adjustment this year. The number of these cases in LR dropped by 47% from 1 276 to 672. The MTRCL plans to gradually remove the situation where Octopus fares are higher than the corresponding Single Journey Ticket fares starting from this year and in the coming few years.

(f) To ensure train safety and reliability, a series of maintenance repair and inspection works for LR have to take place every night after the last train departs up to around 5 am the next morning before the train service commences. This is to ensure that the equipment is in normal operation. Therefore, maintenance staff has to complete works within two to three hours every night. Further extending the service hours of LR will affect such maintenance works, which may affect the operation safety of LR. The MTRCL has tried its best to balance passengers' need and the maintenance repair works of LR. Nevertheless, the Government will continue to urge MTRCL to look

into the service hours of LR, or suggest other viable alternatives, to synchronize with the last train of WRL. At the same time, the Government will also look into if other public transportation modes may collaborate accordingly.

Annex

Carrying capacity of all LR routes in 2013

LR route	*Hourly carrying capacity (per direction)*	*Single/coupled-set LRV arrangement during morning peak hours*
505	2 440	7 single and 1 coupled-set
507	2 611	8 single and 1 coupled-set
610	2 324	11 single and 2 coupled-set
614	1 128	7 single
614P	1 410	5 single
615	1 085	7 single
615P	1 410	5 single
705	5 640	5 coupled-set
706	5 640	5 coupled-set
751	3 021	6 single and 6 coupled-set
751P	1 763	4 single
761P	6 267	13 coupled-set
Total carrying capacity	34 739	

Improvement Works for Mong Kok Stadium

13. **DR HELENA WONG** (in Chinese): *President, Mong Kok Stadium is a major base for staging high-level local soccer matches and other events. The Stadium was re-opened in October 2011 after 24 months of improvement works. However, quite a number of members of the public and soccer fans have complained to me about the failure of the covers of the Stadium to serve the required functions, including their inability to block sunlight and rainwater effectively, and rainwater dripping from the covers to the spectator stands. In this connection, will the Government inform this Council:*

(a) of the actual expenditure of the improvement works for Mong Kok Stadium; whether, when vetting and approving the works design for the reconstruction of spectator stands and the provision of covers at the Stadium, the authorities had assessed if the aforesaid problems would occur; if they had, of the details; if not, the reasons for that; and

(b) whether the authorities have received complaints or enquiries from members of the public regarding the aforesaid problems; if they have, of the details of the replies made by the authorities to the complainants, and how they will follow up and remedy such situation; if no remedies will be made, of the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

(a) Mong Kok Stadium was closed for a period of 24 months from September 2009 for improvement works. The project scope included reconstruction of spectator stands with individual seats and provision of covers of an open design for the spectator stands on the North and South sides; reprovisioning of the kiosk, offices, storerooms, players' changing rooms, toilets and other ancillary facilities under the spectator stands; reprovisioning of the VIP stand, VIP room, public address systems and entrance plaza; reconstruction of boundary fence; and relocation of car parking spaces, and so on. The cost of the redevelopment project was about $275.5 million. The Stadium was re-opened in October 2011 upon completion of the works.

Before the improvement works, no cover was provided for the spectator stand on any of the four sides of the venue. The Stadium is an outdoor facility located in a densely populated town centre. When planning for the covers for the Stadium, we had to take into account not only the protection to be offered but also the environment of the Flower Market Road nearby as well as the scale and limitation of the structure in order to minimize the visual impact on the residential developments in the vicinity. Having considered various factors, the proposal of installing cable-stayed canopies on the North and South stands was finally adopted. Such design can

not only offer appropriate protection to the spectators, but also facilitate ventilation of the Stadium. With a relatively lightweight appearance, the covers cause less visual obstruction and impact to the neighbouring residential developments. Apart from practicability, it can also blend in with the surrounding environment.

During the design process, the designers extended the canopies towards the pitch as far as possible to increase the area to be covered. As the covers are not enclosing structures, it would not be possible to keep out all rainwater during windy and rainy weather. Other outdoor soccer pitches with covers of similar design also face the same situation.

(b) Since the re-opening of the Stadium in October 2011, the Leisure and Cultural Services Department (LCSD) has received one complaint in 2012 about the backflow of rainwater at the spectator stand. The LCSD has discussed with the Architectural Services Department (ArchSD) on the possible improvements. Last year, the ArchSD first installed several additional rainwater collection devices on the cover of the South stand, which has a higher seating capacity, to reduce the risk of backflow of rainwater to the stand. Since then, the problem has been alleviated. Based on such experience, the LCSD and ArchSD are now considering possible improvements to the North stand.

Climate Change Strategy and Action Agenda

14. **MR FREDERICK FUNG** (in Chinese): *President, in September 2010, the Government of the last term launched a public consultation on Hong Kong's climate change strategy and action agenda (strategy and action agenda), which included proposals for revamping the fuel mix for electricity generation. The public consultation ended in December of the same year, but the Government has yet to announce the consultation outcome and the ultimate proposals on the strategy and action agenda. According to government information, as electricity generation accounts for as high as 67% of local greenhouse gas (GHG) emissions, enhancing fuel mix for electricity generation is one of the important measures for reducing overall emission of carbon dioxide. However, the authorities have yet to draw up the strategy on the future fuel mix for*

electricity generation. On the other hand, the incumbent Chief Executive mentioned in his election manifesto the target that "in response to the global concerted action to mitigate climatic change, we must study and set a target for reducing the emission of carbon dioxide by 2020 and devise an all-round action plan". However, the emission reduction targets set for 2015 and 2020 in collaboration with the Guangdong Province, as mentioned in Chief Executive's first Policy Address after assumption of office, have not included the targets for reducing the emission of carbon dioxide, and no specific measures and action plan have been introduced. In this connection, will the Government inform this Council:

(a) of the differences between the Governments of the current and the last terms in relation to climate change strategy and action agenda; the latest emission reduction target for carbon dioxide; whether the Government plans to launch the public consultation afresh in this regard; if not, whether it will expeditiously announce the ultimate proposals on the strategy and action agenda;

(b) whether it has assessed the impact of the long absence of any strategy devised by the authorities with regard to the fuel mix for electricity generation, on the reduction target set by the Government of the last term (that is, the reduction in carbon intensity by 50% to 60% by 2020 as compared with the level in 2005), and whether the Government of the current term will adjust the emission reduction target for carbon dioxide in view of such impact; and

(c) whether the Government of the current term will adopt the promotion of energy efficiency and the increase in the use of renewable energy (RE) as the major strategies for emission reduction (including a substantial increase in the proportion of RE in the fuel mix for electricity generation, the introduction of demand side management on electricity consumption, and so on), and whether it will set a cap on the total amount of GHG emission, so as to replace the proposal of the Government of the last term to use carbon intensity as an emission reduction indicator; if it will not, of the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, our replies to the specific questions raised by Mr Frederick FUNG are as follows:

(a) and (b)

The Government attaches great importance to the work on combating climate change, and has been striving to reduce GHG emissions. As electricity generation accounts for most of the local GHG emissions (67% of total emissions), improving the fuel mix for electricity generation is an important strategy to reduce local GHG emissions and combat climate change.

At present, coal accounts for about 54% of Hong Kong's fuel mix for electricity generation, natural gas 23% and imported nuclear energy 23%. In late 2010, the Government published the "Hong Kong's Climate Change Strategy and Action Agenda" Consultation Document (the Consultation Document), and proposed to set a target to reduce carbon intensity (that is, the amount of GHG or carbon emissions per unit of gross domestic product (GDP)) by 50% to 60% by 2020 as compared with the level in 2005. Targeting at the major sources of local carbon emission, the Government proposed at that time corresponding reduction measures, including improving our future fuel mix for electricity generation in 2020 by substantially reducing the reliance on fossil fuels, which are highly carbon-emitting, gradually retiring existing coal-fired generating units, and increasing the share of non-fossil, clean and low-carbon fuels, including importing more nuclear energy from the Mainland.

While we were consolidating the views received upon conclusion of public consultation, the Fukushima nuclear incident took place as a result of the earthquake and tsunami hitting northeastern Japan. The Mainland authorities have thereafter undertaken to review nuclear safety and put on hold approval of new nuclear power plant projects. At the same time, various sectors in the community have expressed different views on the application of nuclear energy in Hong Kong. Different fuel sources have their own merits and demerits. In reviewing the overall fuel mix for electricity generation, we will strike a balance among the relevant energy

policy objectives of safety, reliability, affordability and environmental protection, and maintain close liaison with the stakeholders. We plan to consult the public on the future fuel mix within 2013, and will at the same time review the carbon intensity reduction target we proposed in 2010, with a view to combating climate change in collaboration with the global community.

(c) In the Consultation Document issued in 2010, we also proposed to mitigate climate change through demand side management measures, including enhancing energy efficiency, promoting green road transport, encouraging the use of clean fuels for motor vehicles, and turning waste to energy. We have embarked on these measures progressively.

In respect of promoting the use of RE, a power company has already installed photovoltaic systems at its power plants, which generate about 1.1 million units of electricity annually. Both power companies are also studying the feasibility of developing offshore wind farms. Furthermore, the Government has put in great efforts to promote turning waste to energy. The sludge treatment facility under construction, for instance, will be equipped with facilities to turn thermal energy generated from incineration into electricity. Apart from meeting the electricity demand of the treatment facility, surplus electricity will be uploaded to the power grid. However, we do not have the necessary conditions to develop RE facilities on an economical scale given the natural and geographical constraints and with the current state of technology.

The Government has been promoting energy saving and enhancing energy efficiency through legislation, policy and public participation. For example, in September 2012, the Buildings Energy Efficiency Ordinance (Cap. 610) came into full operation to maximize energy efficiency of major building services installations such as air-conditioning and lift installations. We are also constructing a first-of-its-kind District Cooling System to provide a more energy-efficient air-conditioning system to the non-residential premises at Kai Tak Development.

The Government has earlier this year set up an inter-departmental Steering Committee for the Promotion of Green Building under the chairmanship of the Secretary for the Environment to strengthen co-ordination among bureaux and departments in promoting green building development, and in formulating implementation strategies and action plans for the promotion of green building in both public and private sectors in Hong Kong, with a view to achieving further carbon emission reduction through energy saving. We have also been promoting community-wide participation in energy saving through various activities. For instance, we have launched the Energy Saving Charter on Indoor Temperature and the Energy Saving Charter on "No Incandescent Light Bulbs" to encourage the community to reduce electricity consumption through air-conditioning and to stop the use of less energy efficient incandescent light bulbs. To encourage consumers to select more energy efficient products, we have implemented the Energy Efficiency Labelling Schemes, and will consider expanding the schemes to cover more products.

In addition, the Government is promoting the conduct of carbon audits in the community, which will enable better understanding of energy consumption characteristics and details of carbon emissions. This will help identify more room for reduction by energy saving and reducing GHG emissions. Since 2012-2013, the Government has also taken the lead to conduct energy-cum-carbon audits for about 120 public facilities and schools by phases over a period of three years. We also encourage companies to conduct carbon audits through funding support provided by the Environment and Conservation Fund.

We will continue to focus on measures targeting at major local GHG emission sources and adopt a two-pronged approach to reduce GHG emissions and combat climate change, including improving our future fuel mix for electricity generation and implementing demand side management measures.

Measures to Mitigate Air Pollution Caused by Vessels

15. **MR JAMES TO** (in Chinese): *President, the residents in the vicinity of Long Beach, Tai Kok Tsui have repeatedly complained to me that they see from time to time a large volume of dark smoke emitted by cargo vessels in the waters off their housing estates. The dark smoke covers the entire area and lasts for a long time, and its pungent smell affects the health of the residents. Regarding the reduction of emissions from vessels to mitigate the problem of air pollution in the coastal areas, the Government has studied various mitigating measures. In this connection, will the Government inform this Council:*

(a) whether the authorities have conducted tests to check if the levels of sulphur dioxide (SO_2), nitrogen oxides and respirable suspended particulates (RSP) in the dark smoke emitted by the cargo vessels sailing through the said area exceed the relevant standards, and whether the authorities have assessed the impact of the dark smoke on the health of the residents nearby; if they have, of the results and measures to mitigate the problem of air pollution in the area;

(b) whether the authorities have assessed the effectiveness of the port facilities and light dues incentive scheme since its implementation last year in encouraging ocean-going vessels (OGVs) to switch to low-sulphur diesel oil from residual oil while berthing in Hong Kong waters (hereinafter referred as "fuel switch at berth"); of the expected time when public consultation on the implementation of mandatory fuel switch at berth will be conducted;

(c) of the progress made by the authorities in exploring the feasibility of implementing fuel switch at berth in the Pearl River Delta (PRD) waters with the relevant authorities of Guangdong, Shenzhen and Macao; whether any difficulties have been encountered; if so, of the reasons for that;

(d) apart from the plan to install on-shore electricity supply in the Kai Tak Cruise Terminal, whether it has any plans to install such facilities in other cruise terminals; if it does not have such plans, of the reasons for that;

(e) whether the authorities have set up any project group to follow up the feasibility of establishing an Emission Control Area (ECA) in PRD waters; if they have, of the progress, including whether they have discussed the issue with the relevant authorities of Guangdong, Shenzhen and Macao, and the data on the estimated reduction in emissions of pollutants; if they have discussed the issue, of the details, and the cities or regions which have undertaken to establish an ECA and the timetable for establishing ECA; if not, whether any difficulties have been encountered, and of those difficulties;

(f) whether the authorities will consider exploring, in collaboration with the authorities of the regions adjacent to the eastern waters of Hong Kong (including Daya Bay), the establishment of an ECA in those waters; if they will, of the details; if not, the reasons for that; and

(g) whether the authorities will conduct public consultation on the plan to establish ECA; if they will, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(a) The Environmental Protection Department (EPD) has a general air quality monitoring station at Sham Shui Po, the monitoring data of which can reflect the air quality in Tai Kok Tsui area. According to the data recorded by the station in 2012, the numbers of occasions where RSP, SO_2 and nitrogen dioxide (NO_2) exceeded their respective Air Quality Objectives (AQOs) were as follows:

		Hong Kong AQOs ($\mu g/m^3$)	*Number of exceedances in 2012*
RSP	24 -Hour Average Hour(1)	180	0
	Annual Average	55	0
SO_2	1-Hour Average	800	0
	24-Hour(1)	350	0
	Annual Average	80	0

		Hong Kong AQOs ($\mu g/m^3$)	*Number of exceedances in 2012*
NO_2	1-Hour Average	300	0
	24-Hour Average(1)	150	2
	Annual Average	80	0

Note:

(1) Not to be exceeded more than once per year

As the sulphur content of marine fuel is relatively high, the concentration of SO_2 can reflect the impact of vessels on air quality around the port areas. In 2012, the highest one-hour and 24-hour averages of SO_2 recorded by the Sham Shui Po Station were 206 μg per cum and 84 μg per cum respectively, and the annual average was 13 μg per cum, all being well lower than the limits of the respective AQOs of 800 μg per cum, 350 μg per cum, and 80 μg per cum. The two 24-hour averages of NO_2 (158 μg per cum and 156 μg per cum) that exceeded the AQOs in 2012 were mainly caused by emissions from motor vehicles.

To reduce emissions from vessels and improve air quality, the Government has launched the Port Facilities and Light Dues Incentive Scheme to encourage OGVs to switch to the use of low sulphur fuel while at berth. In addition, the Government is planning to mandate this practice and upgrade the quality of locally supplied marine light diesel so as to further improve the air quality around the area.

(b) The Port Facilities and Light Dues Incentive Scheme aims to encourage OGVs to switch to the use of low sulphur fuel while at berth so as to reduce emissions. The scheme was launched in September 2012. As at end of June 2013, a total of 2 436 OGV-calls participated in the scheme and the participation rate was about 12%. We will continue to encourage more OGVs to join the scheme.

The Chief Executive announced in the 2013 Policy Address that Hong Kong would bring in new legislation to enforce the fuel switch

requirement for OGVs while at berth. We completed the stakeholders' consultation in the first half of the year and have drafted a regulatory proposal. We will submit the proposal to the Panel on Environmental Affairs of the Legislative Council for discussion at the meeting on 22 July 2013. Subject to the Members' support, we aim at tabling the new regulation for the Legislative Council's scrutiny in the next Legislative Session and implement it in 2015.

(c) To maximize the environmental benefits, we are discussing with relevant authorities of Guangdong and Shenzhen on plans to reduce regional maritime emissions, which include exploring the feasibility of requiring OGVs to switch to low sulphur fuel while berthing in the waters of the PRD.

(d) The EPD has proposed to the operator of Ocean Terminal the installation of on-shore power facilities for the use by cruise vessels equipped with such facilities. The operator is considering the feasibility of the proposal.

(e), (f) and (g)

According to the provision of Annex VI to the International Convention for the Prevention of Pollution from Ships of the International Maritime Organization (IMO), the application for designation of an ECA must be made by a Party to the Convention. Since the Government of Hong Kong Special Administrative Region is not a Party to the Convention, the application to IMO must be made by the Central People's Government if we wish to pursue the ECA initiative. To maximize the environmental benefits, we are discussing with the Provincial Government of Guangdong to explore introducing measures to reduce marine emissions within PRD waters. Hong Kong and Guangdong will first explore requiring OGVs to switch to the use of low sulphur fuel while berthing, and relevant discussion already started earlier this year. Establishing an ECA in PRD is our long-term goal.

Domestic Free Television Programme Service Licences

16. **MR CHARLES PETER MOK** (in Chinese): *President, in January this year, the Secretary for Commerce and Economic Development stated that under the existing policy, there was no upper limit on the number of domestic free television programme service licences (TV licences). However, it has been reported that the Government has earlier sent letters to the three companies currently applying for new TV licences, making it clear that the licences would be issued selectively, and requesting them to provide, within a specified period, the justifications why their companies should be granted the licences. In this connection, will the Government inform this Council:*

(a) of the contents of the aforesaid letters, and whether such letters were issued pursuant to the Broadcasting Ordinance (Cap. 562) (BO) and established licensing procedure;

(b) whether the Government has modified the policy of not setting an upper limit on the number of TV licences; if so, of the justifications for that; if not, why it intends to issue the licences selectively;

(c) of the factors the Chief Executive in Council takes into consideration at the present stage for screening those applicants who may be granted the licences, and the procedure for making such decision; and

(d) whether the Government currently has any plan to postpone the vetting and approval of the present three applications for new TV licences until such time when the existing licences expire, so as to handle these applications together with the applications for renewal of licences; if it has, of the reasons for that; if not, the Government's latest timetable for vetting and approval of the applications for new licences?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, Hong Kong Television Network Limited, Fantastic Television Limited and HK Television Entertainment Company Limited each submitted an application for a domestic free television programme service licence on 31 December 2009, 15 January 2010 and 31 March 2010 respectively (the free TV licence applications). The former Broadcasting Authority (that is, the

predecessor of the Communications Authority) (the Authority), after taking into account various relevant factors and in accordance with the BO and established procedures, has earlier completed the assessment of the three free TV licence applications, and submitted recommendations thereon to the Chief Executive in Council.

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

(a) The Administration has been processing the three free TV licence applications expeditiously and prudently in accordance with the BO and established procedures. As the Administration has repeatedly explained on various occasions, the processing of the free TV licence applications involves complicated issues, including those relating to statutory requirements and procedural fairness, which require time for careful handling. It is inappropriate for the Government to respond to media reports on the free TV licence applications, which are still being considered by the Chief Executive in Council.

(b) In 1998, the Government conducted a comprehensive review of television policy. The public was consulted during the review process. Upon completion of the review, the Government announced in 1998 its decision to open up the television market. This policy remains unchanged up to now.

(c) and (d)

The Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong issued by the Authority sets out clearly the assessment criteria in respect of the free TV licence applications, which include the applicant's financial soundness and commitment to investment; the applicant's managerial skills and technical expertise; the variety, quantity and quality of programmes to be provided; the technical soundness and quality of the proposed service; the speed of service roll-out; minimum inconvenience to members of the public; the benefit to the local broadcasting industry, viewers and the economy as a whole; and quality control and compliance. The Chief Executive in Council will take into account all relevant factors and be guided by public interest in deciding on the free TV licence applications. As it takes time for the Administration to deal with the complicated

issues involved in processing the free TV licence applications in accordance with established procedures, it is neither possible nor appropriate for us to set a time frame for the Chief Executive in Council to make a decision.

The free TV licence applications and the applications for licence renewal for the two existing free television broadcasters are handled differently. The Government will continue to process the three free TV licence applications expeditiously and prudently in strict accordance with the statutory requirements and established procedures. We will announce the outcome as soon as possible after a decision is made by the Chief Executive in Council. As regards the renewal of licences of individual broadcasters, the relevant applications, upon receipt, will be processed in accordance with established procedures.

Measures to Promote Development of Bond Market

17. **MR KENNETH LEUNG** (in Chinese): *President, some members of the securities industry have pointed out that although the Government has been advocating the development of the local bond market over the past 10-odd years and has launched measures to promote related developments, the local bond market is still developing at a slow pace, and the scale of issuance of bonds is not commensurate with Hong Kong's status as an international financial centre. In this connection, will the Government inform this Council:*

(a) of the total amount of bonds issued in the bond market of Hong Kong in the past 10 years;

(b) of the issuance of bonds by the Government and public organizations in the past 10 years (set out in the table below);

Date of issuance	*Name of issuer (organization/ government department)*	*Name of bond*	*Amount issued*	*Tenor*	*Subscription amount for first issuance*

(c) whether the authorities have conducted any assessment on and set any target for the progress of development of the local bond market; if they have, of the details; if not, the reasons for that;

(d) apart from issuing inflation-linked retail bonds and developing the Islamic Bond market in Hong Kong, how the Government will further promote the development of the local bond market, including the retail bond market; given that some organizations have proposed that the Government should encourage public organizations such as the MTR Corporation Limited and the Airport Authority to issue bonds for financing various infrastructure projects, so as to increase the types and quantities of bonds issued, whether the authorities have studied and taken forward such proposal; if so, of the details; and

(e) given that some organizations have proposed that the Government should expand the trading platform for local bonds, for example, developing an electronic bond trading platform by making use of e-Cert certification services, so as to increase the turnover and facilitate the popularization of the bond market, whether the authorities have studied and taken forward such proposal; if so, of the details?

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

(a) The amount of Hong Kong dollar (HKD) debt securities (including bonds, shorter-tenor papers such as bills, and other types of fixed income instruments) issued in Hong Kong in the past 10 years is shown below:

Year	*Amount Issued*[Note] *(HK$ billion)*	*Year-on-year growth*
2003	170.162	-
2004	170.838	+0.4%
2005	188.236	+10.2%
2006	233.679	+24.1%

Year	*Amount Issued*[Note] *(HK$ billion)*	*Year-on-year growth*
2007	221.266	-5.3%
2008	138.485	-37.4%
2009	194.345	+40.3%
2010	179.220	-7.8%
2011	230.067	+28.4%
2012	278.802	+21.2%
Total	2,005.100	

Source: Hong Kong Monetary Authority (HKMA)

Note:

Figures include HKD debt securities issued by the Government, Authorized Institutions under the Banking Ordinance, local corporates, overseas issuers (including multilateral development banks), statutory bodies and Government-owned corporations. Exchange Fund Bills and Notes (EFBNs) issued by the HKMA are excluded because they are part of the Monetary Base under the Linked Exchange Rate System, and are issued for banks to obtain liquidity from the Discount Window.

(b) The Government, statutory bodies and Government-owned corporations made in total 654 issuances of HKD institutional and retail debt securities in the past 10 years. The total issued amount was about HK$264.2 billion (please see Tables 1 and 2 for details). The figures do not include EFBNs issued. As debt issuers did not usually announce the subscription amount of respective debt issuances, such information is not available.

(c) To promote the development of the local bond market, with the approval of the Legislative Council, the Government established the Government Bond Programme (GBP) in 2009 with a size of HK$100 billion. The objectives of GBP are to promote the development of the local bond market in order to expand its scale and broaden its investor base. The Financial Secretary announced in the 2013-2014 Budget the proposal to expand the size of the GBP to HK$200 billion to promote the further sustainable development of the local bond market. The relevant resolution was passed by the Legislative Council on 22 May 2013.

In relation to the implementation of the relevant proposal, the Government consulted the Legislative Council Panel on Financial

Affairs on 8 April 2013, setting out the assessment on the development of the local bond market(1). Relevant information was also set out in a Legislative Council brief issued on 24 April 2013(2). In essence, the local bond market has grown considerably in the past five years, and has been providing an alternative and effective financing channel for corporates. Nonetheless, when compared with economies with a similar level of development, there is still room for development and to attract major foreign investors (such as global bond investment funds) to participate in the local bond market.

(d) The Government promotes the development of the local bond market mainly through implementing the GBP. As at end June 2013, a total of HK$97.5 billion of bonds, including HK$67.5 billion of institutional bonds and HK$30 billion of retail bonds (that is, iBonds), were issued under the GBP. The bond issuances under the GBP were well received by market. According to market feedback, the issuance of institutional bonds under the GBP attracted some new non-bank institutional investors that had never participated in the HKD bond market before. In addition, applications for iBonds issuances set successive records in the local retail bond market. The above demonstrates that the implementation of the GBP has helped broaden progressively the institutional and retail investor base of the local bond market.

The Government will continue to promote the development of the local bond market through implementing the GBP with a view to fostering its growth. The Government will, having regard to market needs, issue appropriate debt securities in future under the GBP.

The Legislative Council has enacted the Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Ordinance 2013 on 10 July 2013. The Ordinance, to be gazetted on 19 July 2013 and to take effect on the same day, establishes a

(1) <http://www.legco.gov.hk/yr12-13/english/panels/fa/papers/fa0408cb1-781-7-e.pdf>

(2) <http://www.fstb.gov.hk/fsb/ppr/legco/doc/b240413_e.pdf>

taxation framework for Islamic bonds issuances and will facilitate the development of Islamic bond issuances and trading in Hong Kong.

In general, statutory bodies and Government-owned corporations, similar to other corporates, will consider primarily the diversification and stability of funding sources at reasonable costs when raising funds. According to records, a number of statutory bodies and Government-owned corporations have already issued bonds to raise funds. Having regard to their corporate needs, they issued in total about HK$97.6 billion HKD debt securities between 2008 and 2012 (please see Table 2 for details).

(e) Institutional investors such as banks, investment funds, pension funds and insurance companies are the major investors in the local bond market. They usually trade bonds directly through financial intermediaries (for example, commercial banks). This is similar to the situation of other foreign bonds markets.

Apart from trading bonds through financial intermediaries directly, retail investors may trade bonds listed on the Stock Exchange of Hong Kong (HKEx) through the automated channels provided by exchange participants (for example, electronic trading platform or telephone hotline) via the electronic trading platform of the HKEx.

According to the HKEx, the number of listed debt securities grew from 192 at end 2011 to 269 at end 2012 and 355 at end June 2013. The total bond trading amount has also increased substantially from HK$0.84 billion in 2011 to HK$2.77 billion in 2012. In the first half of 2013, the bond trading amount has already reached HK$2.4 billion. The above has demonstrated that the HKEx trading platform has already provided a very useful and cost-effective bond trading channel for investors. We would continue to promote enhancement of the existing bond trading platform infrastructure to meet evolving market needs and reinforce the attractiveness of our bond market.

Table 1

HKD debt securities issued by the Government between 2003 and 2012

Year	*Amount Issued (HK$ billion)*	*Tenor*
2004	10.25	2 to 15 years
2009	5.50	2 to 5 years
2010	18.50	2 to 10 years
2011	27.50	2 to 10 years
2012	26.00	2 to 10 years
Total	87.75	

Source: HKMA

Table 2

HKD debt securities issued by statutory bodies and Government-owned corporations between 2003 and 2012

Year	*Issuer*[Note]	*Amount Issued (HK$ billion)*	*Tenor*
2003	Airport Authority Hong Kong Hong Kong Mortgage Corporation Kowloon-Canton Railway Corporation MTR Corporation	15.724	1 to 29 years
2004	Hong Kong Link 2004 Limited Hong Kong Mortgage Corporation MTR Corporation	17.799	1 to 20.6 years
2005	Hong Kong Mortgage Corporation MTR Corporation	8.560	1 to 15 years
2006	Airport Authority Hong Kong Hong Kong Mortgage Corporation MTR Corporation	17.419	3 months to 15 years
2007	Airport Authority Hong Kong Hong Kong Mortgage Corporation	19.368	1 month to 15 years
2008	Airport Authority Hong Kong Hong Kong Mortgage Corporation MTR Corporation	24.308	1 month to 15 years

Year	*Issuer*[Note]	*Amount Issued (HK$ billion)*	*Tenor*
2009	Airport Authority Hong Kong Hong Kong Mortgage Corporation Kowloon-Canton Railway Corporation MTR Corporation Urban Renewal Authority	29.852	1 month to 15 years
2010	Hong Kong Mortgage Corporation Kowloon-Canton Railway Corporation	11.187	1 month to 15 years
2011	Airport Authority Hong Kong Hong Kong Mortgage Corporation MTR Corporation Urban Renewal Authority	20.195	1 month to 10 years
2012	Airport Authority Hong Kong Hong Kong Interbank Clearing Limited Hong Kong Mortgage Corporation MTR Corporation Urban Renewal Authority	12.027	3 months to 10 years
Total		176.439	

Source: HKMA

Note:

Including subsidiaries and corporations established by the issuer.

Handling of Complaints About Water Dripping from Air-conditioners

18. **DR CHIANG LAI-WAN** (in Chinese): *President, the temperature in Hong Kong has continued to rise since June and the Hong Kong Observatory has issued Very Hot Weather Warnings for several consecutive days. Quite a number of members of the public keep their air-conditioners running for long periods of time to relieve the heat, but this may also cause the problem of water dripping from air-conditioners at the same time. Recently, my office has received quite a number of complaints about water dripping from air-conditioners. As the condensation drain pipes for air-conditioners installed at the external walls of some buildings have ruptured due to the lack of maintenance, and some air-conditioners are not provided with drain pipes at all, condensation water from air-conditioners falls like raindrops, and passers-by have to dodge such water drips. Moreover, pavements have been made slippery*

by the dripping water, which may easily cause accidents of passers-by slipping and falling. In this connection, will the Government inform this Council:

(a) of the respective numbers of complaints received, Nuisance Notices issued and prosecutions instituted by the authorities in each of the past 10 years about water dripping from air-conditioners;

(b) of the normal time gap between the receipt of a complaint and a site inspection conducted by the authorities; given that most complaints were lodged by members of the public who found water dripping from air-conditioners after they had returned home from work at night-time, whether the authorities will deploy staff to conduct investigations at night-time; if they will not, how the authorities adduce relevant evidence, as well as investigate and verify whether the complaints are substantiated;

(c) whether the authorities will deploy staff to carry out surprise inspections at individual black spots of water dripping from air-conditioners; if they will, of the details; if not, the reasons for that; when no improvement has been made to the problem of water dripping at those black spots, of the way in which the authorities will tackle the problem;

(d) whether the authorities will consider accepting other means of adducing evidence to expedite the procedure for handling complaints about water dripping from air-conditioners (for example, using the video images provided by building management offices or the complainants); if they will, of the details; if not, the reasons for that; and

(e) given that under the Public Health and Municipal Services Ordinance (Cap. 132), any person who fails to comply with the requirements of a Nuisance Notice within the period specified therein is guilty of an offence and liable to a maximum fine of $10,000 and a daily fine of $200, of the number of days normally given by the authorities to a complainee to make the necessary improvements; regarding complaint cases in which the requirements

of such notices have not been complied with within the specified period, how members of the public can lodge follow-up complaints?

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

(a) The number of complaints received about water dripping from air-conditioners and the number of nuisance notices issued by the Food and Environmental Hygiene Department (FEHD) from 2004 to 2013 (up to 31 May) are set out in the table below:

Year	*Number of Complaints*	*Number of nuisance notices issued*
2004	10 116	304
2005	10 648	308
2006	11 736	395
2007	12 848	266
2008	13 363	299
2009	17 710	517
2010	18 508	490
2011	17 486	486
2012	20 092	631
2013 (up to 31 May)	3 408	26
Total	135 915	3 722

In most cases, as and when the FEHD issues a rectification request or nuisance notice after investigation, the flat owners or occupants concerned would rectify the water dripping problem on their own accord. Where such is the case, prosecution action is not required. In the past 10 years, there were one and two cases of prosecution in 2010 and 2011 respectively.

(b) In general, the FEHD will conduct investigations within six working days and issue a reply to the complainant within 10 days upon receipt of a complaint. On the basis of the time cited by the complainant, the FEHD would conduct site inspections, during different hours of the day including early morning and late evening,

to identify the source of nuisance. When the source of nuisance is identified, the FEHD will request the owner/occupant concerned to rectify the problem within three days. If the nuisance is not abated in time, a nuisance notice will be issued requiring the owner/occupier concerned to abate the nuisance within a specified period, or risk prosecution by the FEHD.

(c) The FEHD has all along been vigilant about the nuisance caused by water dripping from air-conditioners. Apart from handling complaints, the FEHD conducts special inspections for dripping air-conditioners at black spots with heavy pedestrian flow (such as roadside bus stops, public light bus stands and pedestrian crossings) during different hours of the day including early morning and late evening. In 2012 and the first five months of 2013, the FEHD has carried out 510 and 172 special inspections respectively and issued 266 nuisance notices.

(d) Upon receiving a complaint, the FEHD officers will conduct site inspections to identify the source of nuisance. If the building management offices or complainants provide relevant information such as videos or photographs, the same will be used as a reference when gathering evidence.

Since the problem of dripping air-conditioners could be resolved, in most cases, through co-operation among neighbours and simple repair works, the FEHD initiated in 2005 a scheme that encourages "Participation by Property Management Agents in Tackling Dripping Air-conditioners" (the Scheme). The Scheme was set up with a view to handling complaints about dripping air-conditioners in private housing estates during the summer season with the assistance of the respective property management agents (PMAs). Under the Scheme, the participating PMAs will, in the course of performing routine management duties in the housing estate, help identify the source of water dripping and advise the occupier concerned to rectify the problem. If the PMAs fail to resolve the complaints, the FEHD will take up the cases accordingly.

The FEHD will continue to roll out the Scheme this summer. Currently, 22 PMAs covering 53 private housing estates participated in the Scheme.

Preventing or resolving the problem of dripping air-conditioners is not difficult. In order to raise public awareness, the FEHD disseminates relevant messages in the summer through releasing Announcements in the Public Interest on television and radio, and distributing posters and leaflets to owners' corporations, mutual aid committees, property management companies of buildings and members of the public.

(e) If, upon investigation, the FEHD identifies the source of nuisance being caused by water dripping from air-conditioners, the FEHD may issue a nuisance notice to the person causing the nuisance/owner of the relevant premises under section 127 of the Public Health and Municipal Services Ordinance (Cap. 132), requiring him to abate the nuisance within a specified period (normally three days). Should he fail to comply with the requirements stated in the nuisance notice, he may be prosecuted. Upon conviction, the offender is liable to a maximum penalty of $10,000 and a daily fine of $200 should the offence persist.

Where any person has been convicted of the above offence, should the nuisance which gives rise to the offence continue to exist, the FEHD may apply to the Court for a nuisance order requiring the person concerned to comply with the requirement within a certain period. Failure to comply with the requirement of the nuisance order may lead to prosecution. Upon conviction, the offender is liable to a maximum penalty of $25,000 and a daily fine of $450 should the offence persist.

Air Quality Monitoring System

19. **DR KENNETH CHAN** (in Chinese): *President, it was mentioned in "A Clean Air Plan for Hong Kong" published by the Environment Bureau in March this year that new general air quality monitoring stations (AQMS) would be*

installed in Tuen Mun in 2013 and in Tseung Kwan O between 2014 and 2015. Regarding the air quality monitoring system in Hong Kong, will the Government inform this Council:

(a) whether the authorities have drawn up a specific work plan and timetable for installing a general AQMS in Tseung Kwan O; if they have, of the relevant details and the latest progress of implementation; if not, when the authorities will draw up and announce the relevant plan and timetable; if the authorities have not yet decided on the formulation of such a plan and timetable, of the reasons for that; when the general AQMS under construction in Tuen Mun will come into operation;

(b) as the authorities indicated in reply to the questions asked by the Members of this Council on 6 January 2010 and 4 July 2012 respectively that "we consider it unnecessary to set up an AQMS in each of the 18 districts at present" and "the current monitoring network can adequately reflect the level of air quality in Hong Kong …… At present, we have no plan to increase the number of AQMSs", and the Director of Audit pointed out in his report published in October 2012 that as there was rapid development and population growth in Tseung Kwan O, a general AQMS was proposed to be installed in the district, and the Environmental Protection Department (EPD) has supported the proposal and commenced a preliminary site search for the purpose, of the reasons and justifications for the authorities to change their policy;

(c) as I have learnt that the authorities had proposed the setting up of a general AQMS in Tseung Kwan O as one of the compensational measures when they tried to persuade the residents of the district to agree to the proposal for extending the Southeast New Territories Landfill (the extension project), and the authorities have withdrawn the funding application for the extension project, whether the authorities will adjust or even withdraw the plan to set up the general AQMS; if they will, of the details; if a decision on whether to set up a general AQMS is made independent of the extension project, whether the authorities have assessed if regarding this proposal as a

compensational measure in the course of persuading the residents is misleading;

(d) whether the authorities will conduct a comprehensive review of the number and spatial distribution of monitoring stations to ascertain the need to set up general and roadside AQMSs in more areas; if they will, of the details of the review; if not, the reasons for that;

(e) whether, in planning for the number, type, distribution and specific location of AQMSs, the authorities have made decisions on the basis of an objective and quantifiable set of standards; if they do, of the details of such standards; if not, the conditions and criteria based on which the authorities make decisions; and

(f) whether the authorities will consider conducting policy research and public consultation on improving the air quality monitoring system in order to gather public opinions on the matter, especially those of the residents in the districts concerned and green groups; if they will, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(a), (b), (d) and (e)

In setting up the air quality monitoring network, the primary objectives of the EPD are to collect data for assessing the impact of air pollution on the public, facilitate the formulation of an air quality management strategy and evaluate its effectiveness. We adopt the internationally recognized guidelines (such as the guidelines of the United States Environmental Protection Agency) for the design of the monitoring network and site selection of the monitoring stations. We also implement a stringent quality control and assurance system to ensure that the data on air quality are accurate, reliable and representative.

To collect representative air quality data, we will take into account various factors in determining the locations of the AQMSs, namely, spatial distribution of AQMSs in the network, coverage of different types of development areas (such as urban areas, new towns and rural areas), distribution of local population, traffic flow and distribution of sources of pollution, topography and meteorology, representativeness in terms of the local air quality, and the capability of monitoring regional air pollution.

The EPD also conducts annual reviews on the monitoring network in the light of the above factors to consider if the network should be refined, which may include adding new monitoring stations or monitoring parameters.

Hong Kong is a small and densely populated city and its economic activities are mainly commercial and financial. As such, vehicle emission is a key local source of air pollution and the levels of air pollution in different districts are mainly determined by their respective types and density of development. The levels of air pollution in districts with similar types and density of development are more or less the same. The current air quality monitoring network, comprising 11 general AQMSs, covers the major areas of Hong Kong from east to west and from south to north with a distribution covering different land uses (residential, commercial, industrial and a mix of them) of the urban areas, new towns and rural areas. Therefore, the current air quality monitoring network can reflect the overall air pollution situation in districts with different types of development in Hong Kong, serve as a reliable basis for drawing up an air quality management strategy, and provide the public with representative data on air quality.

In addition, the EPD has set up three roadside AQMSs at busy traffic corridors in built-up urban areas with a large number of pedestrians so as to monitor roadside air quality. These three roadside stations are in Causeway Bay, Central and Mong Kok, covering the more densely built-up and most common types of land use in urban areas, including commercial, commercial-cum-residential and financial areas, and so on. The data collected by these roadside AQMSs can

reflect the roadside air quality along busy traffic corridors with a heavy pedestrian flow in the urban areas in Hong Kong.

Given the rapid development of Tseung Kwan O and the further growth in its population in future, as well as its unique topography, after the annual review on the air quality monitoring network in November 2012, the EPD planned to set up a general AQMS there. The EPD has started a site selection survey on the AQMS in Tseung Kwan O, and aims to consult Sai Kung District Council on the preliminary siting proposal around September this year. After the location is confirmed, the EPD will start the design and construction of the AQMS as soon as possible.

The new AQMS in Tuen Mun is now undergoing a baseline monitoring for 12 months, and its quality control and data systems are being refined to align with the standards of the general air quality monitoring network. We expect that real time air quality monitoring data can be reported from this station starting from the end of this year.

(c) The Government's plan to establish an AQMS in Tseung Kwan O is a positive response to the concerns on air quality of the local residents. The setting up of the AQMS would not be affected by the SENT Landfill Extension project.

(f) The EPD will continue to conduct annual reviews on the air quality monitoring network according to the established mechanism and by making reference to the relevant factors such as spatial distribution of AQMSs in the network, coverage of different types of development, distribution of local population, traffic flow and distribution of sources of pollution, and so on. In addition, the EPD is making preparations for a territory-wide short-term and intensive air quality monitoring study covering general and roadside air quality in the coming two years. The findings of the study can provide useful data for the review of the monitoring network. The EPD will also invite local air scientists to advise on the study and further enhance our air quality monitoring system.

Private Health Insurance Policies to be Regulated Under Health Protection Scheme

20. **DR JOSEPH LEE** (in Chinese): *President, one of the features of the Health Protection Scheme (HPS) being studied by the Government is the vision of encouraging more people to buy private health insurance products, thereby indirectly relieving the pressure on the public healthcare system. It has been reported that, according to the latest proposal submitted by the authorities some time ago, the private health insurance policies to be regulated under HPS will come mainly in the form of "packages" to cover surgeries and treatments frequently performed in private hospitals (for example, examinations such as endoscopy, Magnetic Resonance Imaging and Computed Tomography scans, as well as surgeries such as appendicetomy, atherectomy, hysterectomy, oophorectomy, haemorrhoidectomy and otorhinolaryngological surgeries) at the early stage of implementation of HPS. In addition, the authorities have proposed to set up a High-risk Pool (HRP) to underwrite the policies of the HPS Standard Plans for high-risk individuals. In this connection, will the Government inform this Council:*

(a) whether it knows the following information on each type of the aforesaid surgeries and treatments performed by public hospitals on their patients in the past three years: (i) the number of patients receiving the surgeries/treatments, (ii) the average unit cost and (iii) the average waiting time;

(b) whether it knows the following information on the 20 types of most frequently performed surgeries in public hospitals in the past three years: (i) the number of patients receiving the surgeries, (ii) the average unit cost and (iii) the average waiting time (broken down by surgery type);

(c) whether it knows the following information on the 10 types of surgeries with the longest waiting time among those performed by public hospitals on their patients in the past three years: (i) the number of patients receiving the surgeries, (ii) the average unit cost and (iii) the average waiting time (broken down by surgery type); and

(d) whether it has assessed the approximate length of time for which the $50 billion, set aside from the fiscal reserves for the implementation of the healthcare reform, can support the operation of HRP; if it has, of the details; if not, the reasons for that; whether the authorities will impose a cap on the amount of co-payment for each subscriber in HRP; if they will, of the details; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the HPS aims to complement the public healthcare system by providing better protection to those who are able and willing to pay for private health insurance and use private healthcare services. By providing value-for-money choices to the community, the HPS could indirectly provide relief to the public system by better enabling the latter to focus on serving its target areas, thereby enhancing the long term sustainability of our healthcare system. We have set up a Working Group and a Consultative Group on the HPS under the Health and Medical Development Advisory Committee to formulate detailed proposals for the HPS. The Consultant appointed to conduct a consultancy study on the HPS has also tendered preliminary recommendations on various matters related to the HPS, including setting up an HRP to accept health insurance applications from high-risk individuals, and the adoption of "no-gap/known-gap" arrangements to enhance upfront payment certainty for consumers. In addition, we will also encourage private healthcare service providers to provide packaged pricing for common procedures in order to enhance payment certainty and transparency.

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

(a) and (b)

The waiting time, number of cases and reference cost of common elective surgeries and investigations conducted in public hospitals are set out in Table 1 and Table 2. Emergency procedures such as appendicetomy would be performed as soon as possible in accordance with protocols having regard to the relevant medical conditions of the patients.

(c) The Hospital Authority has not surveyed the waiting time for all common elective surgeries performed in public hospitals due to the wide range of procedures. Please refer to Table 1 and Table 2 for

the waiting time, number of cases and reference cost of some common elective surgeries and investigations conducted in public hospitals.

(d) In order to enable high-risk individuals to have access to health insurance protection at affordable premiums, we have proposed to set up an HRP to accept policies of the HPS Standard Plans of high-risk individuals. Where the premium loading of such policies, at the opinion of the insurer providing coverage, is assessed to equal or exceed 200% of standard premium charged by the insurer for providing HPS Standard Plan coverage, the insurer may transfer these policies to the HRP by surrendering the premium collected for these policies after deducting a nominal handling fee to be prescribed by the HPS agency. Thereafter, the insurer will continue to be responsible for the administration of the policies, but the premium income (net of expense), claim liabilities and profit/loss of these policies would be accrued to the HRP instead of the insurer concerned. The Consultant is working on an estimation of the financial support required for the HRP, and will provide the estimated figures in its final report to be submitted by end of 2013. Where necessary, the Government would consider injecting funding to the HRP directly to ensure the Pool's sustainability by making use part of the $50 billion fiscal reserve earmarked for assisting the implementation of healthcare reform.

"Co-payment" is a cost-sharing arrangement between insurers and insured persons. It is designed to combat moral hazard and to bring healthcare costs under better control. On the other hand, in designing cost-sharing arrangements, due regard should be given to possible adverse impact on consumer interests, particularly concerning the ability of lower-income persons in paying the shared cost, which might affect their desire to seek necessary treatments. With the above in mind, the Consultant proposes to impose an annual cap on the amount of "co-payment" for HPS Standard Plans for the sake of consumer protection. We will consult insurers and relevant stakeholders in setting a reasonable level of annual cap on the "co-payment" amount.

Table 1

Common Elective Procedures

Procedure/Investigation	*Waiting Time (Months)*[(1)]	*Number of Cases Performed in 2010-2011*	*Number of Cases Performed in 2011-2012*	*Number of Cases Performed in 2012-2013*	*Procedure Reference Cost ($)*[(2)]	
					Minimum	*Maximum*
Herniorrhaphy	6 to 18	4 642	4 361	4 452	26,100	49,950
Cholecystectomy	4 to 15	3 257	3 342	3 211	34,950	54,150
Thyroidectomy	6 to 18	878	919	883	37,150	57,250
Haemorrhoidectomy	6 to 15	961	907	777	18,850	
Transurethral Resection of Prostate (TURP)	2 to 17	2 533	2 576	2 491	39,350	42,200
Nephrectomy	6 to 12	370	380	422	52,100	96,350
Ureterorenoscopy	2 to 6	355	406	480	19,450	
Open Myomectomy	12 to 16	1 381	1 482	1 682	17,450	44,550
Total Abdominal Hysterectomy +/- Bilateral Salpingectomy (TAH+/-BSO)	12 to 16	1 775	1 744	1 690	46,550	54,650
Laparoscopic Hysterectomy	11 to 16	531	563	608	43,350	65,900
Laparoscopic Ovarian Cystectomy	6 to 11	969	965	1 030	37,150	
Posterior Lumbar Interbody Fusion	4 to 18	357	355	420	67,000	97,850
Anterior Cruciate Ligament Reconstruction	5 to 18	841	743	750	51,950	52,800
Total Knee Replacement	7 to 53	1 599	2 012	2 286	74,750	
Release of Trigger Finger	3 to 6	1 202	1 172	1 123	24,500	
Cataract	10 to 17	24 569	28 032	27 009	14,050	
Tonsillectomy	4 to 12	736	785	729	18,050	28,750
Microlaryngoscopy	4 to 6	778	694	734	12,000	15,200
Endoscopic Nasal and Sinus Surgery	4 to 18	756	709	731	54,650	93,400
Myringoplasty/Tympanoplasty	4 to 18	986	906	960	20,850	55,550

Notes:

(1) Estimated waiting time provided by Hospital Authority clusters (July 2013).

(2) The reference cost information was compiled based on:

(a) Relevant data on operations or examinations performed at Hospital Authority in 2011-2012; and

(b) Hospital Authority Private Fees and Charges with effect from 1 April 2013 (which have been set primarily based on a cost recovery principle).

Variations within the respective range of reference cost would be subject to complexity of disease treated and scope of examinations taken.

Table 2

Investigations

Procedure/Investigation	*Waiting Time*	*Number of Cases Performed/ Attendance in 2011-2012*	*Investigation Reference Cost ($)*[4]
Colonoscopy/Sigmoidoscopy	6 to 12 Months[1]	45 600	11,800 to 20,650
Oesophagogastroduodenoscopy (OGD)	2 to11 Months[1]	80 800	10,350 to 23,700
Computed Tomography (CT)	50 percentile waiting time: within 1 day 90 percentile waiting time: 105 Days[2][3]	297 052	950 to 4,500
Magnetic Resonance Imaging	50 percentile waiting time: 85 days 90 percentile waiting time: 380 Days[2]	52 145	3,000 to 20,000

Notes:

(1) Estimated waiting time provided by Hospital Authority clusters (July 2013).

(2) Reporting period from 1 January 2012 to 31 December 2012.

(3) About 64% of CT examinations are under urgent category. Reporting period from 1 January 2012 to 31 December 2012.

(4) The reference cost information was compiled based on:

(a) Relevant data on operations or examinations performed at Hospital Authority in 2011-2012; and

(b) Hospital Authority Private Fees and Charges with effect from 1 April 2013 (which have been set primarily based on a cost recovery principle).

Variations within the respective range of reference cost would be subject to complexity of disease treated and scope of examinations taken.

Provision of Subsidized School Places for English-speaking Students

21. **MR SIN CHUNG-KAI**: *President, it was published in the press on 27 February 2012 that the following question had been put to the candidates running for the post of Chief Executive, "[w]ill you continue to offer financial support for the English Schools Foundation (ESF)?" In reply, the incumbent Chief Executive had said, "I support continued subvention to ESF to enable it to fulfil its duty of providing affordable English-language education for non-Chinese speaking (NCS) children in Hong Kong." In this connection, will the Government inform this Council:*

(a) given Chief Executive's clear commitment above, why the Government now intends to progressively phase out the recurrent subvention for the mainstream primary and secondary schools of ESF starting in the 2016-2017 school year;

(b) of the Government's policy on the provision of subsidized school places for the children of English-speaking Hong Kong permanent residents, who have not been admitted to the local mainstream schools which use Chinese as the main medium of instruction; and

(c) of a list of those local schools that have confirmed that they are willing and able to offer places to English speaking students who will no longer be able to afford ESF school fees once the subvention is withdrawn?

SECRETARY FOR EDUCATION: President, established in 1967 under The ESF Ordinance (Cap. 1117), the ESF is now directly operating nine primary schools, five secondary schools and one special school. At present, in addition to an annual recurrent subvention, the ESF also receives capital subvention in the form of capital grant or interest-free loan from the Government. Our response to the three parts of the question is as follows:

(a) Report No. 43 of the Director of Audit released in November 2004 pointed out the preferential treatment of the ESF over other similar international schools and recommended that the historical reason for the subvention had to be re-visited in the present day context. With the enactment of The ESF (Amendment) Ordinance 2008, the ESF

has established its Board of Governors and various Committees. It has also set in train a series of reform measures to improve its governance and corporate management. This has paved the way for resumption of the discussion on the subvention review since early 2011.

The international school sector has experienced significant changes since the ESF was established in 1967. In addition to the 14 primary and secondary schools operated by the ESF, there are now another 34 international schools in the community providing similar curriculum for very similar student mix. We have been implementing various facilitation measures to support the development of the international school sector, including the allocation of greenfield sites and vacant school premises yet no recurrent subsidy is provided. Hence, the ESF, being the only international school operator receiving government recurrent subvention, flies in the face of our established policy of not providing any recurrent subsidy to schools mainly running non-local curriculum.

The subvention review aims to establish the unique position of the ESF in the entire school system, having taken into account the latest development of the school sector and the arrangements for schools which operate in a like-fashion in terms of governance and oversight mechanism, admission policy, curriculum and student mix, and so on. While we recognize ESF as an established and valued member of the school system in Hong Kong, ESF is no different from other international school operators in terms of curriculum, student mix and operation. It is difficult to continue providing recurrent subvention to ESF without inviting similar claims for government subvention from other private international schools.

On the argument of continuing recurrent subvention to the ESF to ensure fulfillment of its mission of providing affordable English language education, our research indicates that there are about 10 international schools (marked with asterisk at Annex) currently charging tuition fees within the ESF school fees range of $66,100 to $102,000 for its primary and secondary schools though they are not receiving any subvention from the Government. The list will be

longer if we factored into account the government recurrent subvention to the ESF (amounting to about $20,940 per primary student and $28,880 per secondary student per year) or ESF's estimated increase in the tuition fee (see the row marked with # at Annex) to fully cover the reduction in subvention. On the other hand, the tuition fees of the ESF after the phased withdrawal of the recurrent subvention and consequential upward adjustment are estimated to be still within the middle stratum of the range of tuition fees charged by international schools.

After intensive negotiations with the ESF over the past year, it is agreed that the existing recurrent subvention provided by the Government be phased out in 16 years. The proposal was accepted and supported by the senior government echelon. The Board of Directors of the ESF formally accepted the phasing out arrangement at their meeting on 18 June.

(b) and (c)

The Government is committed to encouraging and supporting early integration of NCS students into the community, including facilitating their adaptation to the local education system and mastery of the Chinese Language. We assure equal opportunities in education for all eligible children (including NCS students) in public sector and Direct Subsidy Scheme (DSS) schools. A series of support measures have been put in place since the 2006-2007 school year, including the provision of an additional grant to schools and school-based professional support(1). In the 2012-2013 school year, there are over 7 900 and 6 900 NCS primary and secondary students respectively, including English-speaking Hong Kong permanent residents, studying in about 580 public sector and DSS schools. In the 2013-2014 school year, we will provide an additional grant ranging from $300,000 to $600,000 to schools admitting 10 or more

(1) Other support measures include the provision of the "Supplementary Guide to Chinese Language Curriculum for NCS Students" complemented by diversified learning and teaching materials and teacher professional development programmes so that schools admitting NCS students can cater for the diverse needs and aptitudes of their NCS students; provision of after-school support to reinforce what the NCS students have learnt during lessons; organization of briefing sessions on school admission dedicated for NCS parents as well as provision of relevant information in major ethnic minority languages.

NCS students. It is estimated that about 100 schools will benefit. School-based professional support services will also be provided to empower schools to support NCS students.

Annex

Tuition Fees of ESF schools and international schools (IS) in the 2012-2013 school year

	School Name	*Annual Tuition Fees (Hong Kong Dollars)*												
		Primary						*Secondary*						
		Y1	*Y2*	*Y3*	*Y4*	*Y5*	*Y6*	*Y7*	*Y8*	*Y9*	*Y10*	*Y11*	*Y12*	*Y13*
Primary-cum-Secondary														
1	*Hong Kong Japanese School[(1)(2)]	31,200						33,600			-			
2	*Sear Rogers IS — Peninsula	70,840						82,280			77,000		88,000	-
3	*Kiangsu & Chekiang Primary School & Kiangsu-Chekiang College — Int'l Section	68,500						88,000						
4	*Korean IS (Korean stream)[(3)]	68,500						89,500						-
5	*French IS (French stream)	76,183	73,373					85,076				104,092		
	ESF schools (existing level)	66,100						98,000					102,000	
6	Christian Alliance P C Lau Memorial IS	83,900			88,200	94,600	101,000	109,800			119,800			-
7	*Korean IS (English stream)[(1)]	79,500						89,500						-
8	*Delia School of Canada[(1)]	86,000								95,000		99,000		-
9	Discovery Bay IS	86,600						115,500					-	
10	French IS (Bilingual and English stream)	83,433	81,217					94,753			-			
		86,783						111,767					139,803	
11	American IS	91,720	96,640			103,480				113,440				-
12	Singapore IS	95,000						110,000			130,000			-
13	Australian IS[(4)]	103,400						119,300			125,300 (IB) 154,900			-
	ESF schools[#]	81,600						121,000					126,000	
14	Canadian IS	106,900				109,900		124,100			134,800			-
15	German Swiss IS (German stream)	113,100						136,500					144,200	
16	German Swiss IS (English stream)	113,100						136,500					144,200	
17	Kellett School	116,500						151,700					-	
18	Carmel School	116,810						137,250						-

	School Name	*Annual Tuition Fees (Hong Kong Dollars)*												
		Primary						*Secondary*						
		Y1	*Y2*	*Y3*	*Y4*	*Y5*	*Y6*	*Y7*	*Y8*	*Y9*	*Y10*	*Y11*	*Y12*	*Y13*
19	Hong Kong Academy	133,000					143,000			150,000		157,000		-
20	Harrow IS Hong Kong	136,500					153,700						159,800	
21	Chinese IS	144,800						171,000					173,400	
22	Hong Kong IS	148,200					154,000			171,600			172,200	-
Primary														
23	*Umah International Primary School[(1)]	5,800						-						
24	*Japanese IS (Japanese stream)[(1)(2)]	31,200						-						
25	*Lantau IS	58,400						-						
26	Think IS	75,000			81,000			-						
27	Norwegian IS	76,300						-						
28	Japanese IS (English stream)	81,500						-						
29	Hong Lok Yuen IS	95,000						-						
30	Kingston IS	100,000		105,000		110,000		-						
31	International Montessori School — An IMEF School	130,000						-						
32	Yew Chung IS	151,750						-						
Secondary														
33	*Concordia IS[(1)]	-						82,000						-
34	International College Hong Kong (N. T.)	-						125,000			130,388		139,000	-

Notes:

* Schools charging tuition fees within the range charged by the ESF.

\# estimated new fees level for new students upon the reduction in subvention.

(1) No fee increase in 2012-2013 school year.

(2) Fees are usually effective from April each year when the school year starts.

(3) Fees are usually effective from March each year when the school year starts.

(4) Fees are usually effective from January each year when the school year starts.

(5) The table shows the position as at September 2012.

(6) The grades in individual schools in the table draw a rough correspondence to the grades in ESF schools. Individual schools may name their grades differently.

Heavy Metal Contamination in Seafood

22. **MR ABRAHAM SHEK** (in Chinese): *President, it has been reported that the Shenzhen Municipal Government earlier conducted sampling tests on shellfish, and the results revealed that the concentration of heavy metal cadmium*

in almost 70% of the samples had exceeded the relevant standards. The situation was most serious in scallops, fan shells and conpoys, among which the cadmium concentrations in some samples even exceeded the limit by 10 times. Some experts and medical professionals have pointed out that intake of large quantities of cadmium over a long period of time by human body may cause osteoporosis, liver and kidney damage, and even cancer. In this connection, will the Government inform this Council:

(a) whether it has sought information from the relevant departments of the Shenzhen Municipal Government about the aforesaid press report; if it has, of the details; if not, the reasons for that;

(b) of a breakdown, by place of origin, of the shellfish sold in Hong Kong in terms of quantities and percentages;

(c) whether the authorities have obtained the relevant information on the aquaculture farms in those waters in Hong Kong and nearby regions which are more seriously contaminated and contain a higher concentration of heavy metals, so as to step up the sampling tests conducted on the seafood supplied by such aquaculture farms and to take precautionary measures; if they have, of the details; if not, the reasons for that;

(d) whether the authorities have assessed if the existing work of conducting sampling tests are sufficient to ensure that the seafood sold in local markets meet the relevant food safety standards; if they have, of the details; if not, the reasons for that;

(e) whether it has assessed the proportion of seafood imported through illegal channels or without sampling tests conducted among all seafood sold in local markets; if so, of the details, together with a comparison between the present situation and that of five years ago; if not, the reasons for that; and

(f) apart from the food safety report released monthly by the Centre for Food Safety (CFS), whether the relevant government departments will make public the results of sampling tests conducted on seafood

samples without delay; if they will, of the details; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, in accordance with the existing mechanism, the CFS monitors on a daily basis food incidents which occurred in Hong Kong, the Mainland and other countries. It assesses the risks these incidents pose to Hong Kong in the light of the information obtained and takes due actions accordingly.

In June this year, the CFS noted that the Shenzhen Center for Disease Control and Prevention had conducted a test on shellfish samples. The test showed that nearly 70% of the samples were found to contain the heavy metal cadmium at a level exceeding the relevant limit, and that the cadmium levels in fan shell, fan scallop and Japanese scallop were of particular concern. The CFS has taken due actions following the release of the findings.

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

(a) The CFS contacted the Mainland authorities concerned for more information on the report, and learned that no local shellfish from Shenzhen were supplied to Hong Kong. At present, all the shellfish supplied to Hong Kong come from aquaculture farms or fishing areas outside Shenzhen.

(b) According to the records of the Airport Food Inspection Office under the CFS, about 9 740 tonnes of live shellfish were imported by air in 2012, mainly from the United States (2 376 tonnes, 24.4%), Thailand (1 364 tonnes, 14.0%), Australia (1 211 tonnes, 12.4%), Canada (921 tonnes, 9.5%) and the United Kingdom (837 tonnes, 8.6%).

Data from the Agriculture, Fisheries and Conservation Department (AFCD) show that, in 2012, about 1 770 tonnes of live shellfish caught by local fishing vessels mainly in Mainland waters were sold in Hong Kong.

Oysters from the Deep Bay are the major type of shellfish produced locally. In 2012, the total sale volume in Hong Kong was about 92 tonnes.

(c) The Environmental Protection Department (EPD) has implemented a comprehensive marine water quality monitoring programme to monitor the condition and quality of water and sediment in Hong Kong waters. The sediment quality monitoring covers levels of heavy metals. As far as cadmium is concerned, according to the EPD's Report on Marine Water Quality in Hong Kong in 2011, the mean cadmium level in marine sediments in Hong Kong waters from 2007 to 2011 falls within the range of 0 and 0.7 mg per kg dry weight. The level of concern is low.

The AFCD conducts regular water quality monitoring at all fish culture zones in Hong Kong to check whether the environmental conditions are suitable for fish culture. The checks cover the level of dissolved oxygen, suspended solids and inorganic pollutants, and so on, in marine water. The overall aquaculture environment is considered satisfactory.

The Administration has no information about the state of seawater contamination at aquaculture farms in neighbouring regions.

(d) The CFS monitors food incidents in Hong Kong, the Mainland and other countries on a daily basis. Upon detection of a food incident, the CFS will make a preliminary evaluation based on the information available. The CFS will contact the authorities concerned for further information and take into account the latest overseas and local risk analysis that are available. When necessary, the CFS will adjust the scope and intensity of food surveillance and take samples as appropriate for testing of the hazardous substances. It will also take measures accordingly to ensure food safety in Hong Kong and protect public health.

The CFS adopts the risk analysis framework promulgated by international food safety authorities in managing food safety, under which hazards associated with food or food ingredients are evaluated and the potential risks to the population assessed. This has facilitated the formulation of a food surveillance programme focusing on risks and food safety. Samples of food items (including seafood and seafood products) are taken at the import, wholesale and retail levels for testing to assess food risks. If any

food item is assessed to be hazardous to health, the CFS will take vigorous follow-up action.

From 2010 to 2012, more than 2 400 samples of seafood and seafood products (including some 1 300 shellfish products) were taken by the CFS for testing of metallic contaminants. Of all the samples tested, 28 were found to be unsatisfactory. The overall satisfactory rate was about 99%. The test findings show that Hong Kong has been upholding a high level of food safety standard. Among the unsatisfactory samples, four samples of shellfish were found to contain cadmium at levels between 2.17 and 3.5 parts per million (ppm), exceeding the maximum permitted concentration of 2 ppm as stipulated in the relevant legislation. Nevertheless, based on the level of cadmium detected, it is considered unlikely that the samples would bring about any adverse health effect upon normal consumption.

The Public Health and Municipal Services Ordinance (Cap. 132) provides that all food intended for sale for human consumption in Hong Kong, whether imported or locally produced, must be fit for human consumption. In addition, the food must comply with the regulations concerning food safety and food standards made under the above Ordinance, including the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V). Any person who sells food with metallic contamination above the legal limit may be prosecuted and is liable upon conviction to a fine of $50,000 and imprisonment for six months.

(e) The Import and Export Ordinance (Cap. 60) stipulates that any person who imports any unmanifested cargo shall be guilty of an offence. Offenders will be prosecuted and are liable on summary conviction to a fine of $500,000 and imprisonment for two years; or on conviction on indictment to a fine of $2 million and seven years' imprisonment. A total of 3 945 kg and 64.15 kg of seafood were seized by the Customs and Excise Department in 2009 and 2013 (as at the end of June) respectively in connection with the above offence.

(f) Apart from releasing a monthly Food Safety Report that summarizes all surveillance results of the previous month, the CFS also releases food surveillance results in a timely manner to enable consumers to make informed choices.

For test results which present threats to public health or are liable to arouse health concern among the public, the CFS will issue press releases immediately in order to reduce the possibility of danger to public health and warn the public against consuming the food affected. Apart from press releases, the CFS also releases food surveillance results on its website. Advice is given to consumers on how to minimize health risks posed by problem food.

For example, in June last year, under the regular food surveillance programme, the CFS took over 9 000 food samples for testing and the results showed that one grilled grouper sample contained Tetrodotoxin. The CFS issued a food alert immediately to warn the public against consuming the product.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

CHILD ABDUCTION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2013

TOYS AND CHILDREN'S PRODUCTS SAFETY (AMENDMENT) BILL 2013

CLERK (in Cantonese): Child Abduction Legislation (Miscellaneous Amendments) Bill 2013
Toys and Children's Products Safety (Amendment) Bill 2013.

Bills read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

CHILD ABDUCTION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2013

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I move the Second Reading of the Child Abduction Legislation (Miscellaneous Amendments) Bill 2013.

The Bill seeks to amend the Child Abduction and Custody Ordinance (Cap. 512) and relevant laws with a view to implementing the recommendations of the Report on International Parental Child Abduction (the Report) published by the Law Reform Commission of Hong Kong (LRC), which aim to help prevent children from being abducted out of Hong Kong by one of the parents, as well as to better support the operation of the Hague Convention on the Civil Aspects of International Child Abduction.

The Report aims to improve Hong Kong's current legal protection against international parental child abduction. Generally speaking, parental child abduction usually occurs when a relationship between two parents breaks down and one of them absconds with the child to another jurisdiction. As pointed out by the LRC, when a child is abducted, he or she suffers the trauma of being taken away from home, and from the custodial parent and other family members. We are also concerned that such abduction will be a harrowing experience for the child's left-behind family. Implementing the recommendations of the Report will minimize the likelihood of children being abducted out of Hong Kong by one of the parents, thus avoiding the occurrence of the abovementioned situation.

(THE PRESIDENT'S DEPUTY, MR RONNY TONG, took the Chair)

Having examined the existing legislation in Hong Kong relating to child abduction and made reference to the relevant laws of overseas jurisdictions, the

LRC made a total of six recommendations, including the introduction of legislative restrictions on removing a child from Hong Kong without the required consent; a specific power to the Court to order the disclosure of the whereabouts of a child and to order the recovery of a child; a specific power to the enforcement authorities to hold a child suspected of being abducted so that he can be returned to the custodial parent or taken to a place of safety, and so on.

The authorities already completed the examination of the Report and issued their response to the Report to the Chairman of the LRC in October 2009. As stated in our public response, the authorities have accepted in principle all the recommendations of the LRC and proposed that the relevant laws be amended by the Bill with a view to implementing the legal reform.

Deputy President, we believe the authorities' approach of implementing the recommendations of the Report through the enactment of the Bill is in line with public expectations and will be supported by the community at large. Consultation was already conducted by the LRC on its reform proposals in relation to the guardianship and custody of children before the Report was published. Moreover, the authorities also briefed the Legislative Council Panel on Welfare Services on our stance towards the Report at its meeting held on 8 February 2010. The Panel was generally positive to our stance.

I beg Members to support the passage the Bill as early as possible so as to implement the recommendations of the Report and provide further protection to the best interest of children.

Deputy President, I so submit. Thank you.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Child Abduction Legislation (Miscellaneous Amendments) Bill 2013 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

TOYS AND CHILDREN'S PRODUCTS SAFETY (AMENDMENT) BILL 2013

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I move the Second Reading of the Toys and Children's Products Safety (Amendment) Bill 2013 (the Bill).

The main purpose of the Bill is to broaden the scope of "children's product" under the existing Toys and Children's Products Safety Ordinance to control the maximum amount of six types of phthalates in toys and children's products.

Phthalates are plasticizers which are commonly added to polyvinyl chloride products, that is, soft plastic products, to improve their flexibility and durability. Phthalates have very low acute toxicity in humans. The main concern is over chronic exposure through the oral route. Animal studies have shown that chronic exposure to certain phthalates is harmful to the liver and kidney, and causes reproductive and developmental toxicity. As children, infants in particular, often put objects into their mouths, if phthalates are present in those objects, they could leach out and migrate through saliva into the body to various extent, thus causing a health risk.

Advanced economies such as the European Union, the United States, Canada and Singapore have imposed concentration limits of six types of phthalates, namely DEHP, DBP, BBP, DINP, DIDP and DNOP, in certain toys and children's products with which infants very often come in close contact. To ensure the safety of children and prevent Hong Kong from becoming the dumping ground for non-compliant products, we propose to make reference to the practices of the abovementioned economies and impose similar controls on the maximum amount of the above-mentioned six types of phthalates.

The Toys and Children's Products Safety Ordinance (the Ordinance) currently regulates toys and 12 specified classes of children's products. We propose to amend the Ordinance to expand the definition of "children's product" to cover products that are intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under four years of age and that contain any plasticized material. We also propose other technical amendments to the Ordinance so as to make subsidiary legislation to impose the proposed control on the six types of phthalates.

If the Bill is passed by the Legislative Council, we will make subsidiary legislation in accordance with the amended Ordinance to prescribe the maximum amount of phthalates in certain toys and children's products that are intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under four years of age and submit it to the Legislative Council for scrutiny.

With these remarks, Deputy President, I hope that Members will support and pass the Bill. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Toys and Children's Products Safety (Amendment) Bill 2013 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Trust Law (Amendment) Bill 2013.

TRUST LAW (AMENDMENT) BILL 2013

Resumption of debate on Second Reading which was moved on 20 February 2013

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

MR NG LEUNG-SING (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Trust Law (Amendment) Bill 2013 (the Bills Committee), I now report on the deliberations of the Bills Committee to this Council.

The purpose of this Bill is to modernize the trust law so as to facilitate more effective trust administration. The Bill seeks to amend the Trustee Ordinance (TO) and the Perpetuities and Accumulations Ordinance (PAO) to extend certain trustees' powers; impose a statutory duty of care on trustees; provide for the validity of certain trusts, as well as abolish the rule against perpetuities (RAP) and amend the rule against excessive accumulations of income for new trusts.

The Bills Committee has held eight meetings and invited the relevant trade and members of the public to give views on the entire Bill and individual provisions.

The Bills Committee supports the modernization of the trust law regime in Hong Kong by the Bill so as to enhance the competitiveness of local trust services industry, attract more settlors to set up trusts in Hong Kong and further consolidate Hong Kong's status as an international asset management centre. While the Bills Committee generally supports the proposals of this Bill, some members have expressed concerns about the proposed abolition of the RAP and the imposition of statutory control on trustees' exemption clauses. In the following part of my speech, I will give a concise report on the major deliberations of the Bills Committee.

Firstly, it is the abolition of the RAP. Under the common law, the RAP dictates that the interest in trust properties must vest in the beneficiaries not later than 21 years after the death of the prescribed person at the time of the creation of such interest, otherwise the relevant interest will be invalidated. The PAO has modified the abovementioned common law rule by mitigating the strictness of the relevant rule. The PAO also provides that settlors may choose a fixed perpetuity period of 80 years, which means that the interest in trust properties may vest in the beneficiaries not later than 80 years.

The Administration suggests that the RAP should not be applicable to all new trusts, and settlors would be allowed to set up perpetual trusts in Hong Kong. The Administration's justifications are as follows. The RAP has its origin in the United Kingdom in consideration that it is against public policy to allow immovable property, especially land, to be governed by trusts and thus removed from the market. However, almost all private land in Hong Kong is leasehold land held from the Government with a fixed lease term. Furthermore, in case

any private land is required for redevelopment purposes, there are several ordinances which give the Government a power of resumption or compulsory sale. Accordingly, in Hong Kong, the RAP is not essential. Since there are still fixed perpetuity periods for trusts in London and Singapore (125 years and 100 years respectively), allowing settlors to set up perpetual trusts in Hong Kong would help attract more trusts to set up in Hong Kong.

The Bills Committee notes that the Joint Committee on Trust Law Reform (JCTLR) representing the trust industry in Hong Kong supports the abolition of the RAP. The JCTLR holds that most trusts hold movable assets; as Hong Kong does not impose estate duty, there are only few cases in which local properties are held by trusts, so the proposed abolition of the RAP would not affect the circulation of properties in the market.

Some members point out that for trusts governed by Hong Kong laws which hold immovable assets in other jurisdictions where the RAP is in force, perpetuity will not apply even though the rule is abolished in Hong Kong. They therefore cast doubt on whether the abolition of the RAP will attract more trusts to set up in Hong Kong. Given that the proposed abolition would lead to a major change to Hong Kong's trust law regime, some members request the Administration to reconsider whether Hong Kong should allow perpetual trusts or, taking a progressive approach, to extend the perpetuity period of trusts from currently 80 years to a longer period. There are other members who support the authorities' proposal to abolish the RAP. The authorities note members' views but insists on the proposed abolition of the relevant rule.

The second major point of discussion is about the modification of the rule against excessive accumulations of income. This is a provision under the PAO which seeks to restrict accumulation of income of the trust property. The Administration proposes to add a new provision to provide that the rule against excessive accumulations of income does not apply to trust instruments taking effect after the commencement of the enacted Bill. Nonetheless, it maintains certain restriction on the accumulations of income of new charitable trusts so that the income will be applied for the intended charitable purposes. The Bills Committee has examined the justifications for the proposal to abolish the rule against excessive accumulations of income and noticed that other comparable jurisdictions (including the United Kingdom and Singapore) have abolished the rule against excessive accumulations of income. The Administration points out

that the application of this rule is very complicated and there will be uncertainties, which may give rise to unnecessary litigation. The Administration therefore proposes to modify the relevant rule, and this is supported by the trust industry. The Bills Committee does not object to the Government's proposal.

The third major point of discussion is about the imposition of statutory control on trustees' exemption clause. The Bills Committee notes that under the common law, a trustee's exemption clause in the trust instrument can validly exempt the trustee from liability of all breaches of trust except fraud. To better protect the beneficiaries, the authorities propose to add a new provision to the TO to provide that trustees receiving remuneration would not be exempted from liability for breach of trust arising from the trustees' own fraud, wilful misconduct and gross negligence.

The Bills Committee notes that the Hong Kong Bar Association (the Bar Association) has reservation about the use of the term "gross negligence" in the new provision. The Bar Association considers that the concept of "gross negligence" is vague and problematic. If the term "gross negligence" is not defined in the Bill, it would lead to significant uncertainties and probably an increased risk of litigation. Thus, the Bar Association holds the view that one solution would be the introduction of a statutory definition for the term "gross negligence". Some members share the concern of the Bar Association.

The Administration advises that the term "gross negligence" has been adopted in a number of ordinances without specific definition in those ordinances. In determining whether a conduct in respect of that case falls under "gross negligence", the Court must consider all relevant factors in a particular case and construe "gross negligence" in the light of the circumstances of each case. The Government considers that as case law is still developing and it has yet to go through a due process of consultation on the proposal, it is not prudent to create a definition of "gross negligence" at this stage.

Lastly, it is the relationship between foreign forced heirship rules and local trusts. Forced heirship rules are typically found in some civil law jurisdictions to restrict how testators pass their estate. The rules require that a testator must reserve a particular portion of the estate for designated categories of heirs. If there is not enough left in the estate to satisfy the indefeasible portions of the aforesaid heirs, property in trusts set up by the testator during his lifetime may be clawed back to make up for the shortfall. The authorities propose to add a new

provision under the TO to the effect that the foreign heirship rules will not affect the validity of a settlor's transfer of movable assets to a trust. The new provision will apply if the trust is governed by Hong Kong law and each trustee is either an individual who ordinarily resides in Hong Kong or a body corporate the central management and control of which is in Hong Kong. The Bills Committee is of the view that the coverage of "trustee" should be extended to cover companies incorporated in Hong Kong so as to encourage company incorporation and bring ancillary benefits to Hong Kong. The Administration shares the Bills Committee's view and will propose a relevant amendment.

The Bills Committee has also conducted in-depth discussions on many other provisions, and the details have been set out in the written report. Considering that the Bill has incorporated the mainstream views of the trade, the Bills Committee agrees that the reform of the trust law regime in Hong Kong should expeditiously take the first step to consolidate Hong Kong's status as an international asset management centre. In response to the Bills Committee's suggestions, the authorities have undertaken to review the trust laws again in the short run to improve the relevant system. The Bills Committee supports the resumption of the Second Reading debate on the Bill.

The Government will move a number of Committee stage amendments (CSAs) to address the concerns of the Bills Committee and improve the drafting of the provisions. The Bills Committee agrees to the authorities' proposed CSAs.

Deputy President, next, I will express my personal views on the Bill. The legislative amendments proposed in this Bill are pressing. The existing TO was enacted as early as 1934, and has not undergone any major review or modification over the past 80 years. Some provisions have already failed to meet the need of present-day trust business. In recent years, other common law jurisdictions (such as the United Kingdom and Singapore) have reformed their trust laws to facilitate trust administration and develop trust business. Thus, if Hong Kong's trust law regime does not keep abreast of the times, our trust business will be affected. From the perspectives of upgrading the competitiveness of Hong Kong's trust services industry and attract more trusts to set up in Hong Kong so as to enhance Hong Kong's status as an asset management centre, the present amendment to the TO is indeed essential. The Bills Committee has conducted eight meetings. I am the Chairman of the Bills Committee, and have declared interest at the meetings as a member of the trade.

Members of the Bills Committee have conducted in-depth discussions and examinations of all major issues, and a consensus has been forged. For some members' suggestion that a definition should be created for the term "gross negligence", the Administration advises that it will explore the necessity of such a definition in the future. Here, I hope the Administration will continue to follow up the issue. Hong Kong is a major asset management centre in Asia, and the trust industry held assets of an estimated HK$2,600 billion as at the end of 2011. Over 60% of the asset management business comes from non-Hong Kong investors. I believe the present revision of the TO will be welcomed by the industry and will attract more trusts to set up in Hong Kong, thereby further enhancing Hong Kong's status as an international financial centre.

With these remarks, Deputy President, I support the Bill and call upon Members to render their support.

MR CHAN KIN-POR (in Cantonese): Deputy President, in order for Hong Kong to become an international financial centre, it is essential to develop our asset management services. Since the trust services industry and asset management business are closely related, it is imperative for Hong Kong's trust laws to meet the need of present-day trust business, with a view to enhancing our competitiveness in the world market and attracting organizations around the world to conduct trust and asset management business in Hong Kong.

The two ordinances governing the trust law regime have not undergone any major revision for decades, and they have obviously failed to meet the present-day need of trust business. The submission of the Bill by the authorities is therefore very timely. Such a move is extremely important to enhancing the competitiveness of Hong Kong's trust industry.

As Mr NG Leung-sing has already spoken on the deliberations of the Bills Committee, I am not going to make any repetition. I just want to point out that the Government must review and update our trust law regime regularly and more frequently, so as to promote the development of asset management and trust business, thereby ensuring Hong Kong's status as a financial centre. I request the Government to review the trust law regime within two years, especially the issues raised in the submissions of the industry that have not been dealt with, such as recognizing the validity of non-charitable purpose trusts and widening the reserve power of settlors. Furthermore, it should suggest new revisions with a

proactive and enlightened attitude, with a view to supporting Hong Kong's trust industry and making it more competitive than their counterparts in the rest of the world.

Thank you, Deputy President.

MS STARRY LEE: Deputy President, I am speaking on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to support the passage of the Trust Law (Amendment) Bill 2013.

Hong Kong is a major asset management centre in Asia, with the trust industry estimated to hold assets exceeding HK$2,600 billion. In view of the recent trust law reforms by some major common law jurisdictions like the United Kingdom and Singapore and the fact that Hong Kong's Trustee Ordinance has not been substantially revised since 1943, it is critically important that Hong Kong modernizes its trust laws to facilitate trust administration and attract more trust businesses. It has been noted that the absence of a modern trust law has contributed to the increasing use of other trust jurisdictions for the setting up of trusts or company structures since clients consider the importance of legal certainty offered by such places.

With the general support for the proposed modernization exercise for enhancing Hong Kong's status as an international financial centre and the work done by the trust industry to support the Government over the past years, the Government submitted this Bill to amend the Trustee Ordinance with a view to bolstering the competitiveness of Hong Kong's trust services and attracting more settlors to set up trusts in Hong Kong.

Those amendments mainly fall into three categories: first, clarification of trustees' duties and powers; second, better protection of beneficiaries' interests; and third, modernization of trust law.

The DAB supports those amendments and urges the Administration to take forward the proposals so as to enhance the competitiveness of Hong Kong's trust services industry, attract settlors to set up trusts in Hong Kong and further consolidate Hong Kong's status as an international asset management centre.

The DAB believes that the Bill could help achieve the proper balance for different parties, would provide appropriate power to trustees in the execution of their duties, and that this would encourage future growth in the local trust industry.

Trust law reform is not a one-off exercise. The DAB acknowledges the importance of updating Hong Kong's trust law regime regularly for maintaining and enhancing Hong Kong's status as a major international asset management and financial centre. We urge the Administration, having made the first step in the reform of the trust law regime, to continue the review on the regime, address the various outstanding issues raised in the submissions of concerned parties, and make new proposals within a reasonable time.

It has been a long journey for the Trustee Ordinance to be amended. I understand it has taken almost nine years to go to this stage. Three Deputy Secretaries are involved, they are John LEUNG, Darryl CHAN and now Patrick HO, and I understand the Hong Kong Trustees' Association has played an active role in pushing this reform and the necessary amendment to the Trustee Ordinance. The DAB appreciates the efforts made by all the various parties in enhancing Hong Kong's position as a trust centre in Asia.

It is important that the Hong Kong Government pursues a long-term vision and policy on developing and promoting the trust industry and creating an enabling environment to foster business growth. The passing of the Bill to amend the Trustee Ordinance will serve to modernize the trust legislation and further cement Hong Kong's position as a truly world-class financial services centre in all aspects.

With the amendments to Hong Kong's Trustee Ordinance putting Hong Kong in a more favourable position *vis-à-vis* other comparable trust jurisdictions, it is important that the Government should also look at how to promote the modernized law effectively, especially overseas, taking advantage of the momentum for increased business and economic activities it could help generate.

To move forward, the Hong Kong Government should join hands with the Hong Kong Trustees' Association and other related stakeholders in planning the promotion of Hong Kong as a trust jurisdiction to showcase Hong Kong as an international asset management centre and trust centre.

Thank you, Deputy President.

MR MARTIN LIAO (in Cantonese): Deputy President, Hong Kong's trust law has a history of almost 80 years and it is really time to modernize it. As an international financial centre, Hong Kong needs a set of modernized and sound trust laws to facilitate effective trust administration. It is also hoped that this can attract more overseas trust funds to establish business in Hong Kong.

Many common law jurisdictions, such as Singapore and the United Kingdom, have modified their trust laws to bring them in line with present-day circumstances. Since Hong Kong possesses a sound legal system and rich experience in trust administration, it is definitely well-equipped to become an asset management centre popularly sought after by fund investors.

After a three-month discussion in the Bills Committee on Trust Law (Amendment) 2013, I generally agree to the amendments proposed by the authorities, but do not support the abolition of the rule against perpetuities (RAP).

Trust law is originally meant for immovable assets, and all along, perpetuity periods are fixed, not open-ended, with the aim of safeguarding the circulation of land assets. Particularly, as Hong Kong is a tiny but densely populated place, it is undesirable to perpetually tie up immovable assets. Although a member of the trade has estimated that only 10% of Hong Kong's trust assets are immovable assets at present, this does not mean that perpetual trust will not impact the circulation of land. Although lands in Hong Kong are mostly short-term leaseholds, one reasonable expectation is that land use periods are generally marked by continuity. For example, in the United Kingdom, a 99-year or even 999-year lease is often deemed as freehold. Lease holders in the United Kingdom may enjoy the title for 999 years.

Furthermore, nowadays, trust assets include many different kinds of assets, such as company shares. Therefore, perpetual trusts will likewise perpetually tie up both tangible and intangible assets. In my opinion, it is undesirable for Hong Kong to perpetually tie up any forms of assets.

In the case of ordinary people, perpetual trust will make it even more difficult for them to control their trust assets. In the case of companies, the impact is also very serious. Trust shareholders, for example, may make use of their minority shares (more than 25%) to intervene in company decisions requiring special resolutions, because special resolutions must be passed by shareholders holding no less than 75% of all the shares. Perpetual trusts will in

effect increase the bargaining power of the minority trust shareholders, and thus bring forth certain impact, permanent impact, on company business and development. Naturally, trust funds or professional trustees will find this very favourable, but from the standpoint of company management, boards of directors or other shareholders, this must be a hotbed of problems. The authorities should not only consider the viewpoints of the industry and neglect the interests of other affected people or third parties. After all, broad public interest should be the basic intent of this legislative amendment exercise.

Some people argue that perpetual trust can be terminated. But I have reservation about this saying, not in the legal sense, but in a practical sense. According to the law — there are certainly numerous precedent cases, but I am not going to elaborate — the adult beneficiary of a trust, who is of sound mind and is entitled to the whole beneficial interest, can terminate a trust. The authorities advised that the perpetual rule will not render the termination of trust more difficult. However, most trusts nowadays have more than one beneficiary, and experience tells us that it will be unrealistic to expect them to unanimously agree to the termination of their trust because they may have different interests and considerations in many cases. In practice, it would be difficult to terminate a trust fund, and perpetual trust may thus give rise to numerous litigations. If the beneficiaries fail to reach a unanimous decision, it is basically impossible to terminate the trust fund.

The authorities' vision of making Hong Kong an asset management centre should be encouraged and supported, but I do not understand why the authorities should compare ourselves with those offshore tax havens. Places where the RAP has been abolished, such as the Bahamas and Cyprus, are offshore tax havens. Under the pressure of the United States and the European Union, the future of these havens is still largely unknown. And, there is no evidence to support the thinking that perpetual trust can have positive impact on the local trust industry. If the authorities abolish the RAP in the absence of any concrete data, I must say that this is quite a hasty move.

Perpetual trust is not the world trend. Quite the contrary, after conducting thorough consultation and repeated verifications, Singapore and the United Kingdom have recently decided to set their perpetuity periods at 100 years and 125 years respectively, instead of abolishing the RAP. Since Hong Kong's trust laws were based on the trust laws of the United Kingdom, we should first set a longer perpetuity period (say 150 years or other durations) before we can fully

grasp the impact of perpetual trust, rather than copying the abolition of the RAP as practised by those offshore tax havens.

Amendments should be made to the trust laws of Hong Kong to bring them more line with the present-day situation. But I do not agree to the abolition of the RAP. As for the other amendments to the relevant ordinance, I basically support them. Therefore, on balance, I will abstain from voting on this Bill. I must say so for the record.

Deputy President, I so submit.

MR ALBERT HO (in Cantonese): Deputy President, since Hong Kong's abolition of estate duty in 2008, we have expected that Hong Kong will make a lot of preparations to strive for the position of the best asset management centre in the world. As we can see, the competition between Hong Kong and Singapore in this area has remained very keen, and over this period of time, we have also come to realize the need to modernize our trust laws. In fact, the existing trust laws have been in use for quite a long period of time and have not undergone any comprehensive review. Although we now have such an opportunity, I still think that we must still face many constraints in the course of review. The greatest problem is that since the objective of the review is to enhance the attractiveness of Hong Kong as an asset management centre, the entire legislation is designed from the angle of professional trustees.

During the deliberation of the Bill, I repeatedly reminded myself to take note of the concerns of people affected by this legislation, such as trust beneficiaries. Mr NG Leung-sing, Chairman of the Bills Committee, has been impartial and very receptive to our views. But being a professional in trust business, he has naturally looked at the matter from his professional point of view. I have no intention of criticizing him, but I have kept this in mind right from the start.

During the scrutiny of the Bill, I raised two dissenting views. Firstly, Mr Martin LIAO has so rightly pointed out that there is no justification for abolishing the existing Perpetuities and Accumulations Ordinance (PAO). The existence of the PAO is to prevent trust perpetuity. If trusts are perpetual, many assets will be tied up and remain trust assets forever, much to the detriment of economic development. Hoarding of land, in particular, will easily occur and hinder the

circulation of assets, which is not a good thing to social development. The Government has mainly focused on land, explaining that land in Hong Kong is mostly held as leasehold with a fixed lease term. Under the existing law, land can already be tied up for 80 years, but the *status quo* of the SAR can only be maintained for 50 years.

Members may certainly look at the issue from this angle. But if we adopt the wider perspective of overall assets circulation, we will see that the abolition of the PAO will also mean, for example, that a company's assets and shares can be perpetually held as trust assets. Therefore, just as Mr Martin LIAO has said, we should adopt a wider perspective and should not focus on land only. And, even the existing period of 80 years is already much too long.

In the first 20 years of my legal career, I handled a lot of trust and estate cases. I therefore came to know that one traditional concept of the Chinese people at that time was eternity. Hence, the ideal trust should be one that forbade any division of family assets, one that passed down endlessly from generation to generation to the male lines of the family. Women were not entitled to inheritance and could only be given some one-off benefits. And, since women would become members of other families after marriage, they would no longer be regarded as a family member. The Chinese people wanted eternity at that time.

As a lawyer, I would of course advise my clients against such a practice, telling them that the maximum was only 80 years, or that under an alternative arrangement, using people's lifetime as the basis of computation, the term could be up to the lifetime of the last beneficiary plus 21 years. However, at that time, many elderly people did not listen to me. They would rather make a will at home, setting out the things that I told them not to do. For example, they still insisted on eternity, no division of family assets and endless inheritance by male family members down the generations.

I understand very well that the present amendment is meant to satisfy the wishes of such people. I believe there are still many such people in the world, especially in Chinese communities. Such people all think that way. But I am of the view that this mentality is not in keeping with the economic system, social development and asset circulation of the modern times. The abolition of estate duty, in particular, has enabled family fortunes to accumulate down the generations. One generation of people born with silver spoons in their mouths are followed by equally wealthy descendants because their assets cannot be divided and will keep on accumulating huge incomes.

All in all, I think that the existing regime at least still prescribes a fixed term of 80 years. But if it is abolished, all trust assets will become perpetual. When compared with the United Kingdom and Singapore, which have prescribed their fixed perpetuity periods at 100 years and 120 years respectively, we are much more advanced, in the sense that we now want to abolish the RAP. Why should we walk ahead of other countries and abolish all time limits altogether? In every other respect, we are not ahead of other countries, even in democracy. I really cannot understand why we must be so progressive in this respect. I therefore have strong reservation about the abolition of the PAO for reasons which Mr Martin LIAO has already explained in his earlier speech.

Deputy President, Mr LIAO said that in order to express his reservation about the abolition of the PAO, he would abstain from voting on the entirety of the Bill. This is one option. There is, however, another option, and that is, to oppose the inclusion of the amendments to the PAO proposed in Part 3 of the Bill. We do not support Part 3 of the Bill, so if it does not stand part of the Bill, it may still be possible for us to endorse the Bill. I know that the Script for this meeting is already prepared. But I will discuss with the President of the Legislative Council later on to see if Part 3 can be dealt with separately. This is an alternative. If Part 3 does not stand part of the Bill, we will support the other amendments. This is the first point.

The second point is about the liability of trustees. Mr NG Leung-sing, Chairman of the Bills Committee, has clearly elaborated the arguments in this regard earlier on. The points raised by the Hong Kong Bar Association concerning the definition of "gross negligence" are purely academic and theoretical, stemming from its perception that the term is vague. But from a policy point of view, we do have another opinion. As the Bill is presently drafted, it only provides that the trustee would not be exempted from liability in the event of fraud or gross negligence. In other words, regardless of how broad the trusteeship agreement is, only liabilities arising from fraud and gross negligence will not be exempted. However, as far as I may recall, Mr Dennis KWOK and I, and even Mr LIAO, all advised that the present drafting is too narrow because the reference to trustee is different from that in the mandatory provident fund (MPF) schemes law.

On the other hand, the Control of Exemption Clauses Ordinance provides that if there are unreasonable provisions in a contract, the Court may declare it void. Under what circumstances will any provisions be considered

unreasonable? Sometimes, the drafting of exemption clauses is too broad. We, however, opine that the present drafting of the Bill is too narrow because it only provides that there will be no exemption for liability arising from fraud and gross negligence. If a professional charging exorbitant fee has caused his client to suffer heavy asset losses due to negligence or a failure to perform up to professional standards, he is not liable according to the present drafting. But if the Court looks at the trusteeship agreement, it will probably say that since the annual management fee is several per cent, the actual fee will be more than $10 million if the assets concerned are worth $1 billion. The Court will certainly question why the trustee should have even failed to attain the expected professional standards, why he should be exempted, and why he should not be required to pay any compensation.

I therefore consider that the present drafting is much too favourable to professional trustees, and is unfair to society and the small clients. Hence, after discussions, I support Mr Dennis KWOK's amendment, which points out that a trustee's liability is not confined to gross negligence; if he fails to exercise his due diligence and attain the professional standards reasonably expected of a professional trustee, he will still be liable despite the exemption clause, because such are our reasonable expectations regarding professionals. I therefore support Mr Dennis KWOK's amendment to section 41W.

I know that there will be a more in-depth discussion when this amendment is dealt with later on. I do not see why the Government should refuse to support this amendment. If the Government opposes even this amendment …… Trustees of MPF whom I have just mentioned are also subject to the same performance standards. Hence, I do not think the Government should impose such lax requirement again as this will provide unreasonable protection for professional trustees on the one hand, and deprive the general public of the right to enjoy reasonable protection of their interests on the other. I therefore do not think that the Government should do so.

As I have said earlier on, I oppose the inclusion of Part 3 but support the amendment proposed by Mr Dennis KWOK, subject to the President's approval to deal with Part 3 separately later on. I so submit.

MR KENNETH LEUNG: Deputy President, as the Deputy Chairman of the Bills Committee on Trust Law (Amendment) Bill 2013, I would like to make a

few comments. Our Honourable friends, Mr Martin LIAO and Mr Albert HO, have already made comments on the abolition of our rules against perpetuity. In fact, I am holding the same view as these two Honourable gentlemen. As you know, the development of our trust law originated in England, and our perpetuity rules has a long history, although the antiquated rules against perpetuity have created a lot of drafting difficulties and interpretation difficulties in trust documents. However, as these two gentlemen have already mentioned, England has now simplified the rules against perpetuity to make it a trust that cannot exceed a life of 100 years, and Singapore 125 years. And on a similar basis, I cannot see why Hong Kong cannot follow these two places where, in fact, as I have emphasized again and again, the law of trust and equity originated from England. As you note, we are not competing against jurisdictions like the British Virgin Islands, the Cayman Islands, the Bahamas or the many States in the Untied States which have proclaimed to have abolished the perpetuity rules. We are not blindly following the pursuit of profits at the expense of the healthy development of our economy. Having said so, I should of course add that I have been supporting the reform of the tax law, of the trust law, and of other related laws since 2003 in the hope of enhancing Hong Kong's status as a premier asset management centre. However, as you note, Deputy President, the leading economies at the G8 Summit in Lough Erne have been particularly concerned about the opaque offshore jurisdictions which have been helping a lot of well-off individuals and companies to evade taxes. Blindly following all the rules of these offshore jurisdictions will inevitably put Hong Kong on a grey list. So I would remind the Government that it should exercise a lot of caution when considering this abolition of perpetuity rules. Now, for reasons similar to those outlined by the two gentlemen, I think I am choosing the position as already mentioned by Mr Albert HO. I would ask Deputy President to exercise his discretion, so that this particular section of the Bill could be considered separately in the incorporation process.

The second point I would like to make is that the Bill itself makes reference to "charitable trust" without giving a comprehensive and complete definition of the term "charitable trust" — this is a point I have raised several times in the Bills Committee. And in fact, we are really, I think, too much relying on decided cases in determining what is charitable and what is not charitable, without enacting a charitable law. I think the enactment of a piece of law regulating charity was on the drawing board of the Government three years ago. But for various reasons, I think the Government has withdrawn the blueprint for enacting such a law. And, I very much hope that at the second stage of the review of the trust law in a few years' time, the Government would consider enacting a more

comprehensive piece of charitable law before further considering what is charitable trust and what is non-charitable trust for the purpose of our trust management.

The third point I would like to make is that, as already mentioned by the Honourable Albert HO, in the second review of the trust law, there should be a higher protection for beneficiaries and a higher disclosure requirements for trustees, be they professional trustees or non-professional trustees.

Last but not least, Deputy President, simply by updating the trust law *per se* would not enable us to become a premier asset management centre. Deputy President, I would also urge the Government to review the tax regime for Hong Kong incorporated trust or offshore trust while modernizing our trust law. We would like to see a more definitive profits tax regime for these trusts, whether they are set up in Hong Kong or whether they are set up offshore.

And lastly, I would like to remind the Government that we are not competing against those tax havens in modernizing our corporate laws, our tax laws or our trust laws. Hong Kong is one of the most efficient, effective and modern financial centres with worldwide reputation. And I would also like to urge the Government not to look into these jurisdictions when considering future changes in laws in this respect.

This is my speech, Deputy President. Thank you very much.

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 Financial Services and the Treasury to reply. This debate will come to a close after the Secretary has replied.

Before I call upon the Secretary for Financial Services and the Treasury to reply, I want to announce that noting the requests of Mr Albert HO and Mr Kenneth LEUNG, I will suspend the meeting after Members have voted at the Second Reading of the Bill to consider if the two Members' requests would affect the voting of other provisions.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I thank Mr NG Leung-sing, Chairman of the Bills Committee, other members and staff of the Legislative Council Secretariat for their hard work in the past few months, which has facilitated the smooth completion of the deliberation of the Trust Law (Amendment) Bill 2013 (the Bill).

Deputy President, we have adopted a multi-pronged approach to consolidate Hong Kong's status as a premier asset management centre in the Asia-Pacific region, and to develop Hong Kong into an all-round fund and asset management centre.

Reforming the trust law is one of the major initiatives. In Hong Kong, many assets are held and managed in the form of trusts. The trust industry estimates that it holds assets worth more than $2,600 billion. Nonetheless, the two major trust laws, namely the Trustee Ordinance (TO) and the Perpetuities and Accumulations Ordinance (PAO) have not undergone any substantial review or modification since their enactment many years ago, and some of the provisions are already unable to meet the need of present-day trusts. We therefore intend to modernize the trust laws through this Bill, and enhance the competitiveness and attractiveness of Hong Kong's trust services industry, with a view to enhancing Hong Kong's status as an international asset management centre.

With regard to the present exercise of trust law reform and the specific legislative proposals, public consultation was already conducted in 2009 and 2012, and we also briefed the Legislative Council Panel on Financial Affairs before and after these two consultation exercises. In general, the responses of the public and the Legislative Council to the legislative proposals contained in the Bill have been positive.

In the course of formulating the Bill, we made reference to the experience of trust law reform in other common law jurisdictions, especially the United Kingdom and Singapore, as well as the proposals made by the trust industry. According to the industry, many offshore jurisdictions have been striving to attract trust business in recent years, so it thinks that we should use them as a benchmark of comparison when reforming our trust laws. Nonetheless, we note that certain measures or approaches adopted by these offshore jurisdictions are not adopted in other international financial centres. Therefore, how Hong Kong should position itself is a major discussion topic among the industry, the Bills

Committee and us. I wish to point out that the Government will strive to enhance the competitiveness of the trust business, but it must at the same time protect Hong Kong's reputation as a major international financial centre. Therefore, we will not make any comparison with offshore jurisdictions. In many respects, our reform proposals will put Hong Kong on a par with other international financial centres, such as London and Singapore. Where feasible and appropriate, we also propose to introduce measures that will enable Hong Kong to surpass other international financial centres, with a view to highlighting our edges. We are very grateful that the Bills Committee and the industry are generally supportive of the legislative objective of the Bill and the concrete legislative proposals therein.

Specifically, the Bill proposes to amend the TO and the PAO, and the proposals can be divided into three major categories: first, enhancing the trustee's default powers; second, providing for appropriate checks and balances against trustees' exercise of powers; and third, modernizing the trust laws. On the whole, we believe the proposals of the Bill can facilitate trustees' management of trusts, provide appropriate protection to beneficiaries' interests, and attract more people to set up trusts in Hong Kong.

Generally speaking, trustees obtain their powers from trust instruments, and the default powers under the TO are applicable to trustees only when trust instruments do not contain specific provisions. In view of the increasing complexity of present-day trusts, we proposed to enhance the default powers of trustees under the TO, enabling them, for example, to appoint agents, nominees and custodians, and to insure the trust property, so that they can still effectively administer the trusts in case the trust instruments do not contain specific provisions. As the relevant powers are default in nature, they are applicable to trustees only if they do not violate the terms of trust instruments or the statute law.

The Bill also proposes to impose a statutory control on trustees' exemption clause, such that a trustee will not be exempted from liability arising from his own fraud, wilful misconduct and gross negligence. This will enhance the existing common law control on exemption clause. The Bill also provides for specific checks and balances against trustees' new default powers. For example, if a trustee has appointed an agent, nominee and custodian to act, he should review the arrangements from time to time to ensure that they comply with the interests of the trusts. Furthermore, the Bill also introduces statutory duty of

care of a default nature for trustees, thus making the duty of care for trustees more specific.

The Bill will introduce provisions concerning settlors' keeping of the power of investment or asset management functions, so as to enhance the certainty of trusts set up in Hong Kong. The Bill will also abolish the rule against perpetuities (RAP) and the rule against excessive accumulations of income by introducing provision against forced heirship rules, with a view to attracting more people to set up trusts in Hong Kong.

The Bills Committee was supportive of the proposals contained in the Bill. During the deliberation, the Bills Committee has also provided valuable views on individual provisions. Members also touched upon some relevant issues in their speeches just now. I wish to give some responses here.

Quite a number of members have expressed concern about the abolition of the RAP. As we explained to the Bills Committee earlier on, the proposed abolition of the RAP seeks to allow the setting up of perpetual trusts in Hong Kong. This will give flexibility to settlors in determining perpetuity periods, thus inducing them to set up trusts in Hong Kong and attracting inward capitals. As far as we understand, while the United Kingdom and Singapore still retain their RAP, a number of states in the United States and Australia and many other jurisdictions have already abolished their RAP, or put in place similar arrangements to the same effect. We therefore consider it necessary to reconsider the case of Hong Kong to see if there is a need to retain the RAP. If not, the RAP should be abolished to enhance the attractiveness of Hong Kong as a trust domicile.

Deputy President, the RAP originated from the United Kingdom, and the aim is to ensure that private lands would not be tied up by out-dated trusts. The target of the RAP is the freehold land system in the United Kingdom, where landowners are not required to apply for renewal on a periodic basis. Unlike the United Kingdom and other jurisdictions where freehold land exists, almost all private land in Hong Kong is leasehold land held from the Government with a fixed lease term generally of 50 years. Furthermore, there are currently several ordinances which give the Government the power of resumption or compulsory sale, thus ensuring that private land can be developed where necessary. Hence, there is no need to retain the RAP in Hong Kong.

On the other hand, the RAP currently in force in Hong Kong are too complicated and difficult to apply in practice, and may also create possible uncertainties concerning the validity of trusts. In the previous consultation exercises, the majority of the respondents (including not only the trust industry, but also professional bodies) considered it necessary to review the RAP. After carefully considering various factors, we consider the abolition of the RAP favourable to Hong Kong as a whole.

I want to stress that the relevant proposal is only applicable to new trusts and do not affect the existing trusts. Settlors of new trusts may choose any trust period.

Part 3 of the Bill deal not only with the RAP, but also with the rule against excessive accumulations of income. Since members do not oppose the latter, we oppose the non-inclusion of Part 3 of the Bill.

Another issue which the Bills Committee has thoroughly discussed is the proposed statutory control on trustees' exemption clauses in the Bill. Under the common law, the exemption clause will be invalidated only when the trustee is liable for fraud. The Bill seeks to step up the control on the exemption clauses, so that trustees acting in a professional capacity and receiving remuneration would not be exempted from liability for breach of trust arising from their own fraud, wilful misconduct and gross negligence by the terms of the trust instrument, with a view to better protecting the beneficiaries. In this connection, a member proposed to create a definition for the concept of "gross negligence". According to legal advice, the term "gross negligence" has been adopted in a number of existing legislation without specifically defining what it means. Under the proposal of the Bill, the court may consider if a certain act belongs to "gross negligence" in the light of the circumstances of each case. Introducing a definition in the statute law will deprive the court of the flexibility it can have under the present proposal. What is more, as common law cases are still developing, it is inappropriate to draw any conclusion on the definition of "gross negligence". If the Bill introduces any statutory definition for "gross negligence", different stakeholders will be impacted in different ways. Therefore, before introducing any definition, stakeholders must be given ample opportunities to express their views on the proposed definition. All in all, we consider it inappropriate to include a definition in the Bill. We will keep in view

the development of case law and reconsider the matter where necessary in the future.

Earlier on, a Member asked if we can make reference to the mode in the Mandatory Provident Fund Schemes Ordinance (MPFSO) and impose control on the exemption clauses in trust instruments. Actually, in 2009, when a public consultation was conducted on the statutory control on trustees' exemption clauses, we already put forward this mode as one of the options. At that time, there was a view that the mode in the MPFSO was only applicable to trusts of the Mandatory Provident Fund schemes, and the rationale may not be applicable to all trusts. Subsequently, in the public consultation in 2012, the majority of respondents who commented on the relevant provision preferred the present drafting of the Bill. We therefore do not adopt the mode in the MPFSO.

Deputy President, during the deliberation of the Bill, the Bills Committee invited some deputations to express views. Among them was the trust industry, and it put forward some new proposals to further reform the trust laws. We think that in the case of some of these proposals, in-depth policy studies and discussions can be conducted, with a view to assessing their impact on various stakeholders and whether they can bring any benefits to Hong Kong. To this end, we will closely liaise with the industry.

I wish to stress that this Bill is a milestone of Hong Kong's trust law reform, but this is not the end. We will continue to monitor the development of trusts laws in other jurisdictions in the future, and maintain communication with the trust industry and other stakeholders, with a view to further reviewing Hong Kong's trust laws where necessary.

Deputy President, we have taken heed of the views of the Bills Committee and the Legal Advisor of the Legislative Council, and amendments will be proposed later to make technical or textual amendments to the Bill. The relevant amendments are supported by the Bills Committee.

In conclusion, the Bill will modernize the trust laws and encourage more local and overseas settlors to use Hong Kong as their base of trust administration, thereby consolidating our status as an international financial centre and asset management centre. I implore Members to support the Bill and the amendments to be proposed by the authorities. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Trust Law (Amendment) Bill 2013 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Trust Law (Amendment) Bill 2013.

DEPUTY PRESIDENT (in Cantonese): I now suspend the meeting.

3.38 pm

Meeting suspended.

3.51 pm

Council then resumed.

(THE PRESIDENT resumed the Chair)

Council went into Committee.

Committee Stage

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

TRUST LAW (AMENDMENT) BILL 2013

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Trust Law (Amendment) Bill 2013.

CLERK (in Cantonese): Clauses 2 to 26, 28 to 35, 37, 38, 39 and 41 to 59.

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 2 to 26, 28 to 35, 37, 38, 39 and 41 to 59 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, 27, 36 and 40.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move that the clauses read out just now be amended as

set out in the paper circularized to Members. The proposed Committee Stage amendments (CSAs) add the new section 41Y to the Trustee Ordinance in response to the Bills Committee's views, that is, an amendment to the provision against forced heirship rules, and provide for the commencement date of the Amendment Ordinance as well as some technical or consequential amendments.

On the provision against forced heirship rules, the Bills Committee considers that it should not only apply to body corporates the central management and control of which is in Hong Kong, but should be extended to cover body corporate incorporated or established in Hong Kong, with a view to bringing additional benefits to Hong Kong. I have therefore proposed the relevant CSAs to amend clause 27 of the Bill in response to the request of the Bills Committee.

On the commencement date of the Amendment Ordinance, 1 December 2013 is suggested in my proposed CSAs. Upon passage of the Bill, we will launch publicity campaigns in the following few months to let various sectors learn and make proper preparations for the Amendment Ordinance. Also, we will join hands with the industry to publicize the benefits arising from this Amendment Ordinance among people in other places, with a view to encouraging them to set up trusts in Hong Kong and achieving the objective of enhancing Hong Kong's status as an international asset management centre. The statutory control of trustees' exemption clause will apply to existing trusts only one year after the date of commencement, so that appropriate transitional arrangements regarding existing trust scan be made before the provisions come into effect.

Other CSAs are either consequential amendments or technical and textual amendments made to the provisions. The various CSAs proposed by me have been considered and are supported by the Bills Committee. I implore Members to support and endorse the relevant CSAs. Thank you, President.

Proposed amendments

Clause 1 (See Annex I)

Clause 27 (See Annex I)

Clause 36 (See Annex I)

Clause 40 (See Annex I)

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

MR ALBERT HO (in Cantonese): Chairman, I just want to make a brief clarification because when I spoke at the resumption of the Second Reading debate, I mentioned a Committee Stage amendment (CSA) on trustees' exemption. According to my understanding back then, Mr Dennis KWOK obtained our consensus (the consensus of the democratic camp) to propose a CSA. I am in fact holding a copy of this CSA. But since I did not attend the last Bills Committee meeting, I did not know that Mr KWOK had not notified the Chairman of his intention to move the relevant CSA. Therefore, earlier on, I spoke all the time on the wrong understanding that Mr Dennis KWOK had proposed his CSA. Unfortunately, there was some kind of confusion over here. I did not know that he had not submitted any CSA, so I did not myself submit a CSA. As a result, we have failed to amend section 41W of Part IVC concerning trustees' exemption from liability as we originally intended.

When I spoke at the resumption of the Second Reading debate earlier on, I already expressed my viewpoints on this provision. I just want to reiterate that the existing Trust Law (Amendment) Bill 2013 is deficient, and I feel regret about the Government's refusal to accept our proposed CSAs in this regard. With these remarks, I want to put my clarification on record.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, I will call upon the Secretary to speak again.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I think I already responded to all relevant questions during my reply, so I have nothing to add.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 27, 36 and 40 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 27, 36 and 40, as amended, 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 36A Section 80 amended (deposit to be held as security).

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move the Second Reading of new clause 36A. The new provision has been set out in the paper circularized to Members.

New clause 36A is a technical amendment made to section 80 of the Trustee Ordinance (Ordinance). Since under the Trust Law (Amendment) Bill 2013, trust companies have to satisfy the legal requirements by deposits rather than other investments, it is necessary to amend the reference to "investments" in section 80 of the Ordinance. We also take this opportunity to revise the drafting of the provision for the sake of greater clarity.

The proposed new provision has been examined and supported by the Bills Committee on Trust Law (Amendment) Bill 2013. I therefore implore Members to support this motion.

Thank you, Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 36A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 36A.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move that new clause 36A be added to the Bill.

Proposed addition

New Clause 36A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 36A 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.

TRUST LAW (AMENDMENT) BILL 2013

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the

Trust Law (Amendment) Bill 2013

has passed through Committee with 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 Trust Law (Amendment) Bill 2013 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): Trust Law (Amendment) Bill 2013.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Pesticides (Amendment) Bill 2013.

PESTICIDES (AMENDMENT) BILL 2013

Resumption of debate on Second Reading which was moved on 6 February 2013

PRESIDENT (in Cantonese): Mr SIN Chung-kai, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

(Mr SIN Chung-kai was not in the Chamber)

PRESIDENT (in Cantonese): Mr SIN is not in the Chamber. Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Food and Health to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, after the SAR Government had introduced the Pesticides (Amendment) Bill 2013 (the Bill) into the Legislative Council in February this year, the Bills Committee on Pesticides (Amendment) Bill 2013 (the Bills Committee) was immediately formed by the Legislative Council to study the Bill.

First of all, I would like to thank Mr SIN Chung-kai, Chairman of the Bills Committee, and the other five members including Mr Tommy CHEUNG, Mr Alan LEONG, Mr Albert CHAN, Mr Steven HO and Dr Helena WONG for their

efforts in the past five months to examine the related policies and contents of the Bill ……

(Mr SIN Chung-kai hurried into the Chamber)

PRESIDENT (in Cantonese): Secretary, Mr SIN has just entered the Chamber. Will you let him speak first?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Yes.

PRESIDENT (in Cantonese): Mr SIN Chung-kai, please speak.

MR SIN CHUNG-KAI (in Cantonese): President and fellow Members, I am very sorry and must tender my apology to you.

In my capacity as the Chairman of the Bills Committee on Pesticides (Amendment) Bill 2013 (Bills Committee), I now report on the major deliberations of the Bills Committee.

The main objective of the Pesticides (Amendment) Bill 2013 (the Bill) is to implement the requirements of the Rotterdam Convention and the Stockholm Convention (the two Conventions) in respect of pesticides. The Bills Committee held a total of eight meetings to study the Bill, and received views from the public.

The Bills Committee considers it necessary for the Administration to enhance its efforts to monitor and promote the safe and proper use of pesticides. In particular, the Bills Committee is concerned about the health risks posed to the public, especially young children, by the use of pesticides in schools, parks and rural districts, and makes a number of suggestions to the Administration on measures to enhance safety in the use of pesticides.

According to the Administration's explanation to the Bills Committee, all pesticides are now subject to regulation by a system of registration and the issuance of licence or permit. However, the existing Pesticides Ordinance (the

Ordinance) falls short of regulating the export or use of Convention-regulated pesticides as required by the two Conventions. Hence the Bill is introduced to amend the ordinance so as to comply with the requirements of the two Conventions. In response to members' concern and suggestions, the Administration has undertaken to follow up a series of issues to enhance safety in the use of pesticides, which include improving the design and content of warning signs on the spot of pesticide application, highlighting the instructions and cautions on the labels of pesticides, stepping up promotional and publicity efforts targeted on schools, and further enhancing training for the sector.

Members were especially concerned about certain pesticides, in particular paraquat dichloride and diazinon. In this regard, the Bills Committee noted that the Agriculture, Fisheries and Conservation Department (AFCD) has recently reviewed the registration of these two pesticides. Taking into account the public concern about these two pesticides, AFCD already plans to remove them from the register by 2014. The Administration has also undertaken to take into account the pesticides which are banned in the European Union in the next round of review to be conducted by AFCD.

Members also noted that under the existing Ordinance, there is no provision stating that the Ordinance applies to the Government. According to the Administration, it has proposed to extend the applicability of the Ordinance to the Government based on the consideration that Government agencies in general should be governed by the same level of standards as those applicable to private operators in the distribution and availability of pesticides. The Bills Committee supports the Administration's proposal.

The Bills Committee has studied in detail the proposed exemption provisions in the Bill concerning the criminal and civil liability of the Government and public officers. According to the Administration, since the offences under the Ordinance are regulatory in nature and an administrative mechanism will be in place to ensure public officers' compliance with the statutory requirements, the provisions are proposed to expressly exempt the Government and public officers discharging official duties from any criminal liability. The Bills Committee also notes that the exemption provisions are in line with the approach adopted in the Hazardous Chemicals Control Ordinance (HCCO) enacted in 2007 for the same purpose of implementing the two Conventions.

While members have no objection to the proposed exemption of the Government from criminal liability, they generally consider it unfair that under the proposal, public officers are exempted from criminal liability when no exemption is provided to private operators and their employees. Having regard to the need for enabling the legislation to keep pace with the times and the important principle of equality before the law, the Bills Committee requests the Administration to remove the proposed exemption of public officers discharging official duties from criminal liability from the Bill. Taking into account the Bills Committee's request, the Administration will propose the relevant amendments later. The Bills Committee also requests the Administration to consider amending the relevant provisions of the HCCO so as to bring them in line with the Administration's proposed amendments.

The Bills Committee notes from the Administration that according to the legal advice of the Department of Justice, if the proposed exemption of public officers from criminal liability is removed, there is a need to propose amendments to the Bill to provide clear protection to public officers who are engaged in carrying out the Ordinance so that they are not subject to prosecutions for offences under the Ordinance. The Bills Committee generally agrees that public officers in law-enforcement duties should not be subject to the licensing or permit requirement under the Ordinance. Taking into account the Bills Committee's request, the Administration has also narrowed down the scope of coverage of the proposed amendments. Moreover, the Administration has made clear to the Bills Committee its policy intent that only public officers playing the regulatory role will not be subject to the licensing and permit requirements under the Ordinance, and public officers in their role as users of pesticides should still be subject to the relevant requirements.

In respect of civil liability, the Bill proposes that a public officer is not liable for civil liability for acting in good faith in the exercise of a power or in the performance of a function under the Ordinance. Members have expressed concern on whether this proposal would affect the right of any person who intends to lodge a civil claim against public officers. The Administration has assured members that the proposed exemption is limited in scope, and it also explicitly states that the Government shall bear civil liability for acts done by public officers. As such, the proposal will not affect the right of any person who intends to lodge a civil claim.

Furthermore, the Administration will also move some technical amendments to express the intent of certain provisions more clearly. The Bills Committee agrees to these amendments.

President, I will now say a few words about this Bill. I am also very surprised that eight meetings have been held by the Bills Committee to scrutinize this Bill. This is actually a very simple Bill, and Hong Kong is obliged to comply with international agreements anyway. In fact, members of the Bills Committee has little or even no disagreement in this regard. The bulk of our time was spent on discussing how the Government's administrative measures can enhance the monitoring on the use of pesticides. We also made lots of efforts to repeatedly study the proposed exemptions for public officers, as I have mentioned just now. I believe that all Members who are taking part in the scrutiny process today will support the Bill.

After the enactment of the Bill, the two existing ordinances mentioned above will be marked by a great difference in respect of the exemptions of public officers from criminal and civil liabilities. When enacting the HCCO in 2007, we asked many questions. What were those questions about? About the fact that public officers are not subject to criminal liability. However, the case with this present legislative amendment is exactly opposite. There is a complete reversal of the approach adopted in 2007 in respect of the exemption of public officers from criminal liability. Moreover, we have also made reference to the new approach adopted in the Lifts and Escalators Ordinance.

I am aware that the HCCO does not fall under the purview of Secretary Dr KO Wing-man; probably, it is under the charge of Secretary WONG Kam-sing's Environment Bureau. Nonetheless, I hope the Government can work as one entity. Although two separate Bureaux are involved, I hope that after the enactment of the Bill today, the Secretary can find out how these two ordinances can achieve consistency in respect of the exemption of public officers from criminal liability.

I also wish to thank Mr Tommy CHEUNG in particular for participating in the scrutiny of the Bill. Thanks to his single-mindedness and persistence, we have managed to correct the existing practice, bringing the exemption of public officers from criminal liability closer to the principle of equality before the law.

I support this Bill.

MR TOMMY CHEUNG (in Cantonese): President, I am sorry. I was attending to something else just now. I initially intended to admit that I was actually the very culprit who caused the Bills Committee to hold so many meetings on the Pesticides (Amendment) Bill 2013 (the Bill). But Mr SIN Chung-kai has already disclosed this just now. The main objective of the Bill is to amend the Pesticides Ordinance (the Ordinance) and its subsidiary legislation for the purpose of implementing the requirements of the Stockholm Convention and the Rotterdam Convention (the two Conventions). As a member of the international community, Hong Kong is obliged to comply with the relevant international conventions. Hence, the Liberal Party supports the relevant amendments.

As Mr SIN Chung-kai mentioned, the proposed amendments this time around are not complicated at all. But the Bills Committee has still held eight meetings in four months for its scrutiny, mainly because huge amounts of time was spent on discussing the provisions on exempting the Government and public officers from criminal liability.

I have repeatedly pointed out during the scrutiny of legislation in this Council that the Government is forever lenient with itself but harsh towards others. When drafting legislation or provisions involving criminal liability, it will always exempt the Government and public officers from criminal liability. This is not fair. Nowadays, in Hong Kong, everybody is demanding equality before the law, but the authorities still adhere to such unreasonable provisions. This is really disappointing.

In many cases, when Members ask for an explanation from the Government, the reply we get is invariably that similar provisions are also found in other legislation, or that such an approach of law drafting originated from the time of the British-Hong Kong administration. Let me point out that the presence of such an unjust and unfair provision in other legislation should not be taken to mean that this present Bill must follow suit. Quite the contrary, the Government should seek to uncover all ordinances containing such absurd provisions and amend them in one single exercise, rather than clinging to such an approach of law drafting dating back to the British-Hong Kong administration. It has been more than 10 years since the reunification. The SAR Government should adopt a new approach in this new era and eradicate these bad practices. We should keep pace with the times, rather than sticking to the old practices.

When it comes to Legislative Council business, ordinary members of the public will only focus on those issues widely covered by the media. Very few of them will ever realize that there are some unfair provisions in the Bill, such as those on exempting the Government and public officers from criminal liability. But as a Legislative Member serving all Hong Kong people, even as a functional constituency Member, and especially as a member of the Bills Committee, I must strictly perform my gate-keeping role, stand forward, pinpoint the problem and seek to remove all these unfair, unjust and unreasonable provisions. It is only in this way that I can duly perform my duty as a Member of the Legislative Council and live up to people's expectation. I am also happy that all other members supported my view throughout the scrutiny of the Bill.

In the case of the Bill, fortunately, the Government has sincerely responded to the strong opposition expressed by members including myself, and has agreed to amend the proposed section 3A(2) with reference to section 4 of the Lifts and Escalators Ordinance, to the effect that only the Government may be exempted from prosecution against the commission of an offence under the Ordinance. Simply put, public officers may be prosecuted for an offence under the Ordinance. The Liberal Party considers these amendments generally acceptable, and will support them.

President, I understand that the authorities have already conducted public consultation on this legislative amendment exercise. But I note that the proposed amendments will impact on a number of related trades, including small pest control companies and small operators of organic farms. Hence, the authorities must step up publicity and remind them to apply for the required licences or permits lest they may contravene the law out of ignorance or negligence.

I also note that some members of the public who have given views to the Bills Committee either through their written submissions or personal attendance at the Bills Committee's public hearing are concerned about the health risks posed to young children by the use of pesticides in schools and public playgrounds. We must always remember that children have relatively low awareness of self-protection, and they know nothing about paraquat dichloride, where it has been sprayed, what precaution should be taken, and so on; honestly, even adults may not have the relevant knowledge. Therefore, the authorities must honour its undertaking and step up its measures to promote the safe and proper use of pesticides. At the same time, it must strive to provide adequate training to the trades, so that we and our younger generation can be spared the fear of having to

live in an environment where pesticides are sprayed indiscriminately without any proper management.

President, with these remarks, I support the passage of this Bill and the Committee Stage amendments to be moved by the Administration.

MR ALBERT CHAN (in Cantonese): President, as just mentioned by the two Members, the provisions of this Bill are not very controversial. One of the controversial issues is the exemption of Hong Kong Government departments from criminal liability, as just stated by Mr Tommy CHEUNG. But it has already been dealt with. One very important part of the provisions that has aroused discussions and public concern in particular is about the problems caused by the use of pesticides in Hong Kong.

Speaking of pest control, I must say once again that the biggest pest in Hong Kong must be "689", so this impotent Chief Executive called "689" should be eradicated first. All the problems associated with pesticides actually stem from the fact that Hong Kong lags behind other advanced cities on controlling the use of pesticides. At the meetings, I repeatedly talked about Canada, a place I am more familiar with, as an example. I explained that in Canada, there was a three-tier system of representative government comprising the federal, provincial and city governments. The control on the use of pesticides is usually governed by federal laws and regulations at the national level. Laws similar to the Bill we are going to enact today are normally formulated and handled by the federal government. When it comes down to the city level, decisions on which pesticides are to be actually used usually fall within the purviews of city governments. Having regard to its unique circumstances, a city government may enact its own laws and regulations to allow or ban the use of specific pesticides. Regulations of this kind may vary from city to city. Hence, two cities may be just separated by one street, but a particular pesticide which is allowed in one city may be banned in the other city on the other side of the street. This situation is common in overseas countries.

In Hong Kong, this matter has been a cause of constant public complaints. The Hong Kong Government, for example, may spray pesticides on roadsides or near schools without the knowledge of students or even school management. As a result, school children are exposed to the health risks posed by these pesticides. Worse still, unwary school children or elderly persons in the neighbourhood who

have chronic respiratory diseases may thus be made to inhale the pesticides used by the Government. They may thus fall ill, or even face the danger of death. And, this may happen any time without their knowledge.

Hence, we have received many complaints from members of the public. One notable example is Mr Paul MELSOM, who put forth many suggestions to the Bills Committee. President, first of all, let me take this opportunity to thank Mr Paul MELSOM for actively putting forth so much professional and concrete advice to the Bills Committee. In view of his professional expertise and broad knowledge, the Government should approach him and accept his views as much as possible. The Secretary, in particular, should try to set up a meeting with him in order to understand the current problems faced by Hong Kong.

The many problems with the use of pesticides in Hong Kong actually all stem from the fact that rather than itself setting out any specific regulations on the use of pesticides, the Ordinance only applies the two Conventions to Hong Kong. And, to begin with, Hong Kong lacks a professional licensing system for regulating the use of pesticides. Of course, the Government must have put in place certain requirements for tenderers, or for departmental use. But this is not a professional licensing system as such. People who use pesticides may just be common people. The Government no doubt requires course attendance in some specific areas. But this is not a legal requirement.

As I live in a rural village, I know very clearly what has been going on. Any villagers, especially village representatives, who are annoyed by the wild vegetation in front of their houses, will spray pesticides all over their villages. To begin with, they do not have any professional knowledge about the potentially toxic pesticides they are using. Second, there are not any relevant regulations. Of course, there are regulations governing the types of pesticides available for sale, but in many cases, the pesticides used by people are bought in the Mainland because such pesticides are cheaper and probably more effective. Hence, nowadays in Hong Kong, certain luxuriant spots in the rural areas may turn into wastelands overnight because of the spraying of pesticides. In this way, villagers who walk past these spots every day will inhale all the toxic mists which more often than not inflict serious harm on the human body. Hence, due to the lack of regulation, many Hong Kong people are made to inhale various toxins which may even endanger their lives.

Hence, there is one suggestion that the Government should seriously consider the introduction of a licensing regime to regulate the use of pesticides, so as to deter the indiscriminate use of pesticides that may endanger others' life and safety. Second, the Administration should also regulate the procedures of using pesticides. For example, at present, when pesticides are sprayed near a school, there are no regulations requiring the school to be notified. Hence, Mr Paul MELSOM repeatedly suggested that a set of administrative guidelines should be formulated by the Government, and in the course of the Bills Committee's scrutiny, the Permanent Secretary of the Bureau already undertook to relay this request to other Policy Bureaux. I hope the Secretary can give an open undertaking during the Second and Third Readings of the Bill, to the effect that he will request the Education Bureau, the Hospital Authority and other relevant organizations to require government departments, particularly the Leisure and Cultural Services Department, the Food and Environmental Hygiene Department, and so on, to formulate specific guidelines on the use of pesticides. Such guidelines must cover the posting of notices on the use of pesticides, and the notification of all students and teachers when pesticides are used in the vicinity of their schools. In the notices, the units or organizations intending to use pesticides must specify the type, quantity and concentration of the pesticides used, the impact on certain illnesses, as well as the duration of effect — because the toxic effect of certain pesticides may take two weeks or even one month to abate.

Nonetheless, all such information is not available now. Hence, I hope that after enacting the Bill, the Government can, within a reasonable time, instruct and request all the relevant government departments to formulate specific guidelines on the use of pesticides. Such guidelines must include all the information I just mentioned for public inspection. For example, all notices on the use of pesticides must be registered online and uploaded onto the Internet for inspection, so as to facilitate tracing and ascertaining culpability, and enable us to know clearly at what time which organization has used which particular type of pesticides, the chemical ingredients of the pesticides used as well as their impact, concentration and quantity.

Hence, I hope that the enactment of this Bill and the various suggestions of Mr Paul MELSOM can bring substantial improvement to the relevant ordinance. This is important because in most cases now, no notices are put up to inform people of the spraying of pesticides in parks. Perhaps, pesticides were sprayed just the night before, and in the morning people having morning exercise may still

notice the smell of pesticides, but they simply do not know what that smell is. Elderly people who have asthma or respiratory allergies may even die after inhaling the toxins. The important point is that if people have never heard of such messages and information, they will have no idea of how worse the problem can become.

In addition, Mr Paul MELSOM has also provided us with some information. The information has already been forwarded to all members and the Permanent Secretary of the Bureau. I hope the Secretary will study the information carefully once again. According to the information provided by Mr Paul MELSOM, some pesticides on our current list have already been banned by the United States and the European Union. I will forward the list to the Secretary again after the meeting. If the list of pesticides enacted today still contains some pesticides or chemicals which have already been banned by the European Union and the United States, I would say that to a certain extent, the list of pesticides approved in Hong Kong may still contain some products that are potentially hazardous to the health and safety of Hong Kong citizens.

In case there is any further opportunity of discussion and amendment in the future, will the Administration re-consider the four names he mentioned? Because we have only just received the information; if we already got the information during the Bills Committee's scrutiny, we could of course study it in detail. But I do not want to hinder the Second Reading and Third Reading of the Bill today because of the provision of the new information. Nonetheless, I hope that when the authorities get the information, administration-wise at least, they can increase their precaution and show more concern, so that the problem will not worsen.

President, I hope that after the enactment of the Bill, the Government can proceed with legislating for a licensing system to regulate users of pesticides. It is hoped that the required legislation can be enacted as early as possible to make the use of pesticides more professional. Over the years, licensing has enabled us to impose regulation in many areas, such as the operation of estate agents. There was no licensing regulation in many areas in the past, but in the end, we still managed to enact new legislative provisions to enhance the protection of the public in many areas closely related to their interests.

Moreover, regarding the guidelines for government departments I just mentioned, I also hope that they can be formulated within a reasonable time as

soon as possible, so as to offer greater protection to all school children and citizens in the territory. I hope the Secretary can respond to the points I just raised in my speech when he speaks later. Thank you, President.

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

(No Member indicated a wish to speak)

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, right after the SAR Government had introduced the Pesticides (Amendment) Bill 2013 (the Bill) into the Legislative Council in February this year, the Bills Committee on Pesticides (Amendment) Bill 2013 (the Bills Committee) was formed by the Legislative Council to study the Bill.

I would like to thank again Mr SIN Chung-kai, Chairman of the Bills Committee, and the other five members (including Mr Tommy CHEUNG, Mr Alan LEONG, Mr Albert CHAN, Mr Steven HO and Dr Helena WONG) for their work in the past five months in discussing the related policies and contents of the Bill in detail, as well as their many invaluable views on how to further promote the safe and proper use of pesticides. Besides, the Bills Committee has also invited the trade, the stakeholders and the relevant organizations to attend its meeting to give views. Here, I would like to extend my heartfelt thanks to all deputations and members from various sectors for their participation in the discussion and their written submissions.

The objective of the Bill is to comply with the requirements of the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the two Conventions) on the control of pesticides by amending the Pesticides Ordinance (Cap. 133) (the Ordinance). The two Conventions are international treaties aimed at protecting human health and the environment from persistent organic pollutants and hazardous chemicals, including pesticides. China is a signatory to the two Conventions, and the Central People's Government has already extended their application to the Hong Kong Special Administrative Region (HKSAR).

Under the current Ordinance, the import, production, sale and supply of pesticides are already regulated. Under the Ordinance, all pesticides intended for sale in Hong Kong must be registered with the Director of Agriculture, Fisheries and Conservation (DAFC). Apart from the registration system, the DAFC also imposes stringent control over pesticides through the licensing and permit system under the Ordinance. Currently, all pesticides covered by the two Conventions are unregistered pesticides in Hong Kong, and are subject to the permit control under the Ordinance in respect of their import, manufacture, sale, possession and supply. We propose to amend the Ordinance so that the export or use of pesticides covered by the two Conventions will also require a permit issued by the DAFC, in order to fully comply with the requirements of the two Conventions on the export or use of the relevant pesticides.

Moreover, the opportunity has also been taken to update certain provisions of the Ordinance, which include:

(a) providing appeals against certain decisions of the DAFC under the Ordinance be made to the Administrative Appeals Board established under the Administrative Appeals Board Ordinance instead of the Chief Executive.

This would place the appeal hearing function with an independent and impartial body.

(b) confining the existing power of warrantless entry for inspection of any premises by an inspector or a member of the Customs and Excise Service under the Ordinance to:

(i) any premises or place (whether domestic or not) the address of which is stated in an application for a licence or permit under the Pesticides Regulations; or

(ii) any other non-domestic premises or place.

We believe that this would strike a balance between the need for inspection of pesticides by an inspector or a member of the Customs and Excise Service to protect public safety and the need for protecting privacy in such premises in general.

(c) removing the ribbing requirement of pesticide containers to alleviate unnecessary burden on traders.

All the above proposals are supported by the Bills Committee policy-wise.

In drafting the Bill, the Government has reviewed the application of the Ordinance. In the Bill, it is proposed that the amended Ordinance should apply to the HKSAR Government. Regarding the liability of the Government and public officers acting in official capacity, the Government and the Bills Committee have discussed the relevant issues in detail. Having considered the views of the Bills Committee carefully, the Government will move amendments to the relevant provisions. I will explain the relevant amendments in detail later during the Committee stage of the Bill.

In addition, during the clause-by-clause examination of the Bill, members of the Bills Committee and the Assistant Legal Adviser have examined all the provisions meticulously and made some suggestions on the drafting aspect. The Government will also move some textual or technical amendments to some provisions of the Bill later, in order to make the meaning of the provisions clearer and accurately reflect their policy intentions. The Bills Committee also supported these amendments.

The SAR Government attaches great importance to the safe and proper use of pesticides. All pesticides are already subject to regulation under the Ordinance. Following the passage of the Bill, we will comply with the relevant requirements of the two Conventions on the regulation of pesticides, which helps to further protect human health and the environment. In Hong Kong, no major incident caused by improper storage or use of pesticides has occurred in the past, which shows that the current regulatory system and licensing/permit system have been working effectively in ensuring safe and proper use of pesticides.

Of course, this is no cause for us to be complacent. In order to achieve our policy objective of ensuring the safe and proper use of pesticides, the Agriculture, Fisheries and Conservation Department (AFCD) will continue to ensure that only those pesticides safe for use by the public are registered. Moreover, through the existing permit system, the AFCD will ensure that only trained professionals are allowed to handle unregistered pesticides. The AFCD

will also strive to assist the trade in enhancing their standard of using pesticides, which include:

(a) devising suitable training syllabus for pesticide applicators;

(b) drawing up Codes of Practice in collaboration with the trade for the sectors of pest control companies and workers, sports turf management personnel and local farmers; and

(c) promoting public awareness on the safe and proper use of pesticides through educational leaflets and information on Government website.

While no legislative amendment is needed for these measures, they can suitably meet the need for ensuring public safety and protecting the public from the impact of improper use of pesticides. We will continue our work in this regard.

To further promote the safe and proper use of pesticides, the Bills Committee and some attending deputations have put forth many invaluable views to the Administration. The Government has already undertaken to follow up the relevant issues. A list detailing the relevant follow-up actions is set out in the report of the Bills Committee, with highlights as follows:

(a) *Adopting appropriate safety measures*

The Administration will promote the safe and proper use of pesticides among the relevant government departments, the trade and other stakeholders, particularly those measures related to the applications of pesticides, which include reviewing the arrangements for erecting warning signage, stepping up the relevant training and making extra efforts in checking the labels of pesticides.

(b) *Stepping up promotion and publicity efforts*

The Administration will step up public education and promotion on the safe use of household pesticides, particularly for users in rural residential areas; step up promotional and publicity efforts targeted

at schools by organizing talks to schools or their service providers, in order to ensure the safe use of pesticides in the school environment; and conduct briefings for government departments on a regular basis to keep them up-to-date on the regulatory requirements and latest developments.

(c) *Registration and use of pesticides*

The AFCD will regularly review all registered pesticides by making reference to the relevant international standards, as well as the experience in other places, which includes phasing out paraquat dichloride and diazinon, reviewing the regulation on pesticides derived from natural products, and introducing the concept of integrated pest management to the trade. In the long run, the Administration will consider the need to step up regulation of pesticide applicators as appropriate.

(d) On other matters, the Administration will continue efforts in following up public complaints and enquiries properly, and consider the feasibility on a study regarding the long-term impact of pesticides on the health of pesticide applicators in collaboration with the industry.

The above measures have just been mentioned by several Honourable Members including Mr Albert CHAN.

We will progressively follow up the above matters, and report our progress to the relevant Panels of the Legislative Council in due course.

The Administration attaches great importance to the safe and proper use of pesticides. Subject to the passage of the Bill by the Legislative Council, the amended Ordinance will come into operation in six months' time, and the Government will ensure the proper enforcement of the amended legislation. I implore Honourable Members to support the passage of the Bill, as well as the various amendments proposed by the Government.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Pesticides (Amendment) Bill 2013 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): Pesticides (Amendment) Bill 2013.

Council went into Committee.

Committee Stage

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

PESTICIDES (AMENDMENT) BILL 2013

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Pesticides (Amendment) Bill 2013.

CLERK (in Cantonese): Clauses 1, 2, 4, 6, 7, 9, 10, 11, 13, 15, 16, 17, 19 and 21 to 24.

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 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): Clauses 3, 5, 8, 12, 14, 18, 20, 25 and 26.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Chairman, I move that clauses 3, 5, 8, 12, 14, 18, 20, 25 and 26 of the Pesticides (Amendment) Bill 2013 be amended as set out in the paper circularized to Members.

Chairman, as I stated in my speech during the resumption of Second Reading debate of the Bill just now, in drafting the Pesticides (Amendment) Bill 2013 (the Bill), the Government has reviewed whether the Pesticides Ordinance (the Ordinance) as amended by the Bill should expressly provide for its application to the Government. As Government agencies in general should be governed by the same level of standards as those applicable to private operators in the distribution and availability of pesticides, we propose that the Ordinance as amended by the Bill should expressly provide that it applies to the Government.

At the same time, as the offences under the Ordinance are regulatory in nature, and the Government will establish an administrative mechanism to ensure public officers' compliance with the statutory requirements, we propose that provisions be made to exempt the Government as well as public officers acting in official capacity from any criminal liability for offences under the Ordinance.

When scrutinizing the Bill, the Bills Committee has a focused discussion on clause 5 of the Bill (that is, the new section 3A). The Bills Committee agreed that the Ordinance as amended by the Bill should expressly provide that it applies to the Government. The Bills Committee also supported the proposals that the SAR Government is not liable to be prosecuted for an offence under the Ordinance, and it is not required to pay any prescribed fee.

Regarding public officers, the Government originally proposed that public officers acting in official capacity should be exempted from any criminal liability for offences under the Ordinance, considering that unlike employees of general commercial entities, public officers do not have any commercial incentive or pressure from the employer for not complying with the requirements of the Ordinance in performing their duties. Moreover, the offence provisions in the Ordinance are mainly related to the requirements for applying licence or permit under sections 7 and 8 of the Ordinance, contravention of any of the conditions of the licence or permit by its holder, as well as failure to comply with a direction given by Director of Agriculture, Fisheries and Conservation (DAFC), and so on. As government departments will put in place internal procedural guidelines and supervisory mechanism to ensure that officers follow the guidelines when performing their duties, exemption of public officers from criminal liability in relation to these offence provisions will not affect the operation of the Ordinance. As for the offence provision concerning obstruction of an enforcement officer in the exercise of any power under the Ordinance, the Government has established internal mechanism to ensure that the departments concerned will co-operate with the enforcement department and hence, enforcement of the Ordinance will not be affected. Besides, the Government will also adopt administrative measures to ensure public officers' strict compliance with the statutory requirements of the Ordinance.

Nonetheless, the Bills Committee held a different view on the consideration that legislation should apply equally to all and keep pace with the times. In the course of discussion, members noted that the Lifts and Escalators Ordinance (LEO) passed by the Legislative Council in mid-2012 has expressly provided that it applies to the Government. The LEO stipulates that the Government is not liable to be prosecuted for an offence under that Ordinance. It also provides for a statutory reporting mechanism for any contraventions of the LEO by the Government. The Bills Committee suggested that the Government should consider amending the proposed section 3A by making reference to the LEO.

Having carefully considered the views of the Bills Committee, the Government, whilst it cannot see any reason why public officers will deliberately not comply with the requirements of the Ordinance, has nonetheless agreed to propose amendments to the Bill to remove the proposed exemption from criminal liability for public officers in discharging their public duties, on consideration that the Ordinance aims to ensure the proper and safe use of pesticides and to fully meet the requirements of the two Conventions on the regulation of pesticides to protect public safety and the environment, and in order to demonstrate the Government's determination in ensuring the strict compliance with the requirements of the Ordinance. We will also provide for a reporting mechanism in the Ordinance in the event of a contravention of the provisions of the Ordinance by government department, along the lines of the LEO.

The above changes have been reflected in the proposed amendments which have the support of the Bills Committee.

After amendments as stated above, the Ordinance will apply to the SAR Government, and only the SAR Government will be exempted from any liability to be prosecuted for an offence under the Ordinance. In other words, public officers may be liable to be prosecuted for an offence under the Ordinance.

In the course of carrying out the provisions of the Ordinance, public officers of the Agriculture, Fisheries and Conservation Department (AFCD), the Government Laboratory (GL) and the Customs and Excise Department (C&ED) may need to import, sell or supply registered pesticides, or import, sell, supply, be

in possession of, use or export scheduled pesticides or other unregistered pesticides. These acts are subject to regulation under section 7 or the amended section 8 of the Ordinance.

As the Ordinance to be amended by the Bill will apply to the Government and the proposed section 3A will be amended to the effect that only the Government will be exempted from any liability to be prosecuted for an offence under the Ordinance, public officers may be subject to the licence and permit requirements when enforcing the Ordinance. According to legal advice, depending on the evidence in individual cases, if public officers of AFCD, GL and C&ED responsible for enforcing the Ordinance have not applied for a licence or permit, they may be liable to be prosecuted for contravening the requirements under the relevant provisions of the Ordinance. Hence, we need to propose suitable amendments to the Bill to make it clear that public officers who are engaged in carrying out the Ordinance are not subject to the licence or permit requirement.

We propose to add a new section to the Ordinance to the effect that the licence and permit requirements as provided under sections 7 and 8 of the Ordinance respectively do not apply to an "authorized officer" or a member of the Customs and Excise Service who is:

(i) exercising a power or purporting to exercise a power under the Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power; or

(ii) performing a function or purporting to perform a function under the Ordinance or doing anything in connection with or incidental to the performance or purported performance of the function.

At the same time, we propose to empower DAFC for the appointment of public officers as "authorized officers" so that officers in the AFCD responsible for enforcing the Ordinance will also be covered. As circumstances require, DAFC will also appoint public officers from GL, Government Logistics Department or other government departments as "authorized officers".

On the other hand, public officers in exercising a power under certain other ordinances may be engaged in the seizure of articles which may include pesticides (implying possible possession) and auction of forfeited articles. According to legal advice, these activities may also be subject to the licence and permit requirements under section 7 and the amended section 8 of the Ordinance. Hence, we consider it necessary to specify in the Ordinance that the licence and permit requirements under sections 7 and 8 do not apply to public officers engaged in exercising a power under the following Ordinances: the Import and Export Ordinance (Cap. 60), the Public Health and Municipal Services Ordinance (Cap. 132), the Dangerous Goods Ordinance (Cap. 295), and any Ordinance other than the Pesticides Ordinance. The application of the above provisions is limited to public officers who are exercising a power or purporting to exercise a power under the Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power.

The above revision proposal is reflected by the new clause 7A, the amended clause 8 and the new clause 10A as proposed in the amendments. The Bills Committee has examined and agreed to the provisions in the amendments.

In addition, we propose to amend clause 20 by adding "Azinphos-methyl" to Part 1 of Schedule 2 which sets out all pesticides regulated under the Rotterdam Convention. At the Conference of the Parties to the Rotterdam Convention held in Geneva on 10 May 2013, it was agreed that the pesticide "Azinphos-methyl" be added to the Annex to the Rotterdam Convention, so as to bring it under the control of the Rotterdam Convention. The relevant resolution would take effect from 10 August 2013. By then, all signatories (including China) must implement the relevant decision. As the Central People's Government has already applied the Rotterdam Convention to the HKSAR, the Annex to the Rotterdam Convention will also apply to the HKSAR from 10 August 2013.

For the rest of the amendments to be proposed by the Administration, they are mainly textual or technical in nature, so as to make the meaning of the provisions clearer and accurately reflect their policy intentions.

The Bills Committee has already discussed the above amendments in detail, and agreed to the relevant amendments. Chairman, with these remarks, I implore Honourable Members to support the passage of the above amendments.

Thank you, Chairman.

Proposed amendments

Clause 3 (see Annex II)

Clause 5 (see Annex II)

Clause 8 (see Annex II)

Clause 12 (see Annex II)

Clause 14 (see Annex II)

Clause 18 (see Annex II)

Clause 20 (see Annex II)

Clause 25 (see Annex II)

Clause 26 (see Annex II)

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 Food and Health 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 3, 5, 8, 12, 14, 18, 20, 25 and 26 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 3, 5, 8, 12, 14, 18, 20, 25 and 26 as amended 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 7A Section 7 amended (control of registered pesticides)

New clause 10A Section 14 substituted.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Chairman, I move the Second Reading of new clauses 7A and 10A as set out in the paper circularized to Members.

Clause 7A of the Pesticides (Amendment) Bill 2013 (the Bill) seeks to amend section 7 of the Pesticides Ordinance (the Ordinance) by providing that an "authorized officer" or a member of the Customs and Excise Service who is exercising a power or performing a function under the Ordinance, or a public officer engaged in exercising a power under other Ordinances, is not subject to the licensing requirements under section 7. Clause 10A of the Bill seeks to amend section 14 of the Ordinance to empower the Director of Agriculture, Fisheries and Conservation for the appointment of public officers as "authorized officers".

In my speech moving the proposed amendments just now, I have already explained the objectives and contents of the above amendments in detail. The proposed provisions are supported by the Bills Committee. I so submit and hope that Members will support and pass the above new provisions.

Thank you, Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 7A and 10A 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 7A and 10A.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Chairman, I move that new clauses 7A and 10A be added to the Bill.

Proposed additions

New clause 7A (See Annex II)

New clause 10A (See Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 7A and 10A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Long title.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Chairman, I move that the long title be amended as set out in the paper circularized to Members.

One of the amendments passed by the committee of the whole Council just now sought to amend clause 12 by deleting "Power to enter premises, and so on,

for routine inspection" and substituting "Power to enter premises without warrant" in the heading of the proposed section 15A. The purpose is to delete the reference to the term "routine inspection" so that the heading can more clearly reflect the contents of the provision.

Given the reference to "routine inspection" in the original long title, it is necessary to amend the long title correspondingly so that the long title can tally with the relevant provision.

Chairman, I so submit and hope that Members will support and pass the above amendments.

Thank you, Chairman.

Proposed amendment

Long title (see Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment to the long title moved by the Secretary for Food and Health be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

PESTICIDES (AMENDMENT) BILL 2013

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the

Pesticides (Amendment) Bill 2013

has passed through the Committee stage with 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 Pesticides (Amendment) Bill 2013 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): Pesticides (Amendment) Bill 2013.

MOTIONS

PRESIDENT (in Cantonese): Motions. There are a total of six proposed resolutions for this meeting, which are all proposed by the Secretary for Financial Services and the Treasury.

This Council will first deal with three proposed resolutions under the Interpretation and General Clauses Ordinance.

The first motion seeks to amend the Companies (Model Articles) Notice.

The second motion seeks to amend the Company Records (Inspection and Provision of Copies) Regulation.

The third motion seeks to amend the Companies (Non-Hong Kong Companies) Regulation.

PRESIDENT (in Cantonese): As the three items of subsidiary legislation under the three motions are made in accordance with the Companies Ordinance and were scrutinized by the same subcommittee, this Council will proceed to a joint debate on the three motions.

I will first call upon the Secretary to speak on the three motions and move the first motion. When the debate comes to a close, this Council will first vote upon the first motion, and then vote upon the second and third motions

respectively. Whether or not the first motion is passed will not affect the moving of the second and third motions by the Secretary.

PRESIDENT (in Cantonese): This Council will now proceed to a joint debate. Members who wish to speak on the three motions will please press the "Request to speak" button.

I now call upon the Secretary for Financial Services and the Treasury to speak and move the first motion.

PROPOSED RESOLUTION UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, in May this year, we tabled the third batch of subsidiary legislation made under the new Companies Ordinance (CO) at the Legislative Council. The relevant Subcommittee of the Legislative Council has put forward some suggestions to amend three pieces of subsidiary legislation under this batch. The Administration agreed with these suggestions and is going to move three motions at today's Council meeting to give effect to such amendments. The Subcommittee has also completed the scrutiny of a set of rules of court made by the Chief Justice under the new CO, which is subject to positive vetting procedure. I will soon move a motion to seek this Council's approval of the set of court rules.

I now move the first of the three motions for amending the subsidiary legislation, which seeks to amend the Companies (Model Articles) Notice. Under the new CO, every company shall put in place a set of articles to specify the arrangements for its internal management. The Companies (Model Articles) Notice has prescribed three sets of model articles for adoption by different types of companies to be incorporated under the new CO. Same as the practice under the existing CO, a company may adopt, at its own volition, any relevant articles having regard to its own need. These model articles are intended for facilitating the incorporation of companies rather than imposing mandatory regulatory requirements.

The Subcommittee generally welcomed the three sets of model articles. While the Subcommittee did not have difficulties with the intention in respect of the provisions relating to alternate directors, it proposed to refine the drafting of the provisions concerned to facilitate users to precisely understand the detailed arrangements. Meanwhile, the Administration has reviewed other provisions and noted that certain provisions in the Chinese text may need some refinements to improve consistency between the Chinese and English versions. In this regard, the motion proposes a number of textual amendments without changing the intention underlying the provisions concerned. The proposed amendments were agreeable to the Subcommittee and I hope that Members will support the motion.

The second motion seeks to amend the Company Records (Inspection and Provision of Copies) Regulation. This Regulation was made pursuant to sections 356 and 657 of the new CO. It prescribes the arrangements for access to company records kept by companies, including the requirements concerning the place for keeping records, the inspection of records and the provision of copies of records.

This Regulation stipulates the lead time for the provision of copies of company records by a company. Under section 11(1), a company is required to provide the copies within five business days after the date of receipt of a request or payment of the prescribed fee. The requirement seeks to minimize the compliance burden to the company while facilitating the obtaining of copies of company records by the requestor within a reasonable period.

During the scrutiny of this Regulation, the Subcommittee expressed concern that small and medium enterprises might not be able to comply with the statutory requirements due to insufficient manpower. The Subcommittee reached a consensus that the statutory lead time should be extended to 10 business days. This motion seeks to amend the relevant provision in light of such a consensus.

The third motion seeks to amend the Companies (Non-Hong Kong Companies) Regulation. This Regulation was made pursuant to sections 804 and 805 of the new CO. It provides for detailed procedural matters relating to

non-Hong Kong companies (NHKCs) for the implementation of the relevant provisions in the Part 16 of the new CO, such as detailed requirements on the documents to be submitted upon registration of NHKCs and the delivery of annual returns.

During the scrutiny of this Regulation, the Subcommittee offered comments on the drafting and technical aspects of certain provisions of the Chinese text. In this regard, we have agreed to make minor amendments to those provisions to improve their drafting and to better align with the English text. The amendments, which have been agreed by the Subcommittee, will not change the intention underlying the provisions concerned.

President, should the four motions under my name be passed today, this Council would have completed the scrutiny of the three batches of 12 pieces of subsidiary legislation made under the new CO. I would like to take this opportunity to thank Mr WONG Ting-kwong, who served as the Chairman of the Subcommittee, other members of the Subcommittee as well as staff of the Legislative Council Secretariat. During the past six months, the Subcommittee has provided many valuable comments and suggestions for refining the provisions. The completion of scrutiny of the 12 pieces of subsidiary legislation would signify an important move towards the target of bringing into force the new CO in the first quarter of next year. In the coming few months, we will continue with various preparatory work, including preparing a commencement notice for the new Ordinance and updating the provisions in the relevant Schedules in respect of consequential amendments in the fourth quarter of this year. I look forward to continuing our joint endeavour with Members in concluding the final stage of the legislative exercise for the implementation of the new CO, with a view to establishing and strengthening Hong Kong's position as an international business and financial centre.

I move that the first motion under my name, as printed on the Agenda in respect of the subsidiary legislation made under the new CO for amending the Companies (Model Articles) Notice tabled at this Council on 29 May 2013, be approved. I would appeal to Members' support for this motion. Thank you, President.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Companies (Model Articles) Notice, published in the Gazette as Legal Notice No. 77 of 2013 and laid on the table of the Legislative Council on 29 May 2013, be amended as set out in the Schedule.

Schedule

Amendments to Companies (Model Articles) Notice

1. **Schedule 1 amended (model articles for public companies limited by shares)**

(1) Schedule 1, Chinese text, contents —

Repeal

"54. 代委任代表的成員，執行代表委任"

Substitute

"54. 代委任代表的成員，簽立代表委任文書".

(2) Schedule l, Chinese text, article 16(6)(b) —

Repeal

"本公司或"

Substitute

"本公司".

(3) Schedule l, article 31 —

Repeal paragraph (4)

Substitute

"(4) An alternate director must not be counted or regarded as more than one director for determining whether —

(a) a quorum is participating; or

(b) a directors' written resolution is adopted.".

(4) Schedule 1, Chinese text —

Repeal article 54

Substitute

"**54. 代委任代表的成員，簽立代表委任文書**

如代表通知書未經認證，它須隨附書面證據，證明簽立有關代表委任文書的人，有權代作出有關委任的成員，簽立該文書。".

(5) Schedule 1, Chinese text, article 66(1)(a) —

Repeal

"個別"

Substitute

"分開的".

(6) Schedule 1, Chinese text, article 67(2)(a) —

Repeal

"個別"

Substitute

"分開的".

(7) Schedule 1, Chinese text, article 69(7)(b) —

Repeal

"正式手續"

Substitute

"正式轉讓手續".

(8) Schedule 1, Chinese text, article 78(2)(b) —

Repeal

"正式手續"

Substitute

"正式轉讓手續".

2. **Schedule 2 amended (model articles for private companies limited by shares)**

(1) Schedule 2, Chinese text, contents —

Repeal

"50. 代委任代表的成員，執行代表委任"

Substitute

"50. 代委任代表的成員，簽立代表委任文書".

(2) Schedule 2, Chinese text, article 17(6)(b) —

Repeal

"本公司或"

Substitute

"本公司".

(3) Schedule 2, article 29 —

Repeal paragraph (4)

Substitute

"(4) An alternate director must not be counted or regarded as more than one director for determining whether —

(a) a quorum is participating; or

(b) a directors' written resolution is adopted.".

(4) Schedule 2, Chinese text —

Repeal article 50

Substitute

"**50. 代委任代表的成員，簽立代表委任文書**

如代表通知書未經認證，它須隨附書面證據，證明簽立有關代表委任文書的人，有權代作出有關委任的成員，簽立該文書。".

(5) Schedule 2, Chinese text, article 61(1)(a) —

Repeal

"個別"

Substitute

"分開的".

(6) Schedule 2, Chinese text, article 62(2)(a) —

Repeal

"個別"

Substitute

"分開的".

3. **Schedule 3 amended (model articles for companies limited by guarantee)**

(1) Schedule 3, Chinese text, contents —

Repeal

"49. 代委任代表的成員，執行代表委任"

Substitute

"49. 代委任代表的成員，簽立代表委任文書".

(2) Schedule 3, Chinese text, article 16(6)(b) —

Repeal

"本公司或"

Substitute

"本公司".

(3) Schedule 3, article 27 —

Repeal paragraph (4)

Substitute

"(4) An alternate director must not be counted or regarded as more than one director for determining whether —

(a) a quorum is participating; or

(b) a directors' written resolution is adopted.".

(4) Schedule 3, Chinese text —

Repeal article 49

Substitute

"**49. 代委任代表的成員，簽立代表委任文書**

如代表通知書未經認證，它須隨附書面證據，證明簽立有關代表委任文書的人，有權代作出有關委任的成員，簽立該文書。"."

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 WONG TING-KWONG (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Subsidiary Legislation Made under the New Companies Ordinance (the Subcommittee), I would like to submit a report to the Legislative Council to explain the deliberations of the Subcommittee on the six pieces of subsidiary legislation subject to the negative vetting procedure of this Council.

The Subcommittee has held three meetings to discuss and consider the provisions and received a submission from The Hong Kong Institute of Directors.

The Companies (Model Articles) Notice provides three distinctive sets of articles of association for public companies limited by shares, private companies limited by shares and companies limited by guarantee respectively. These companies may adopt any or all of the provisions in model articles to make it convenient for them to design their own articles of association for regulating their internal management.

Regarding the provisions concerning alternate directors in model articles, the Subcommittee expressed concern about the role of internal alternate and external alternate directors, and how an internal alternate director or an external alternate director is to be counted for the determination of quorum at meetings and signing of written resolutions. The Government advised that model articles treat both an internal alternate director and an external alternate director equally and there is no substantial difference in their rights, responsibilities and powers, except that the appointment of the latter must be approved by resolution of the directors.

The Subcommittee supports the Administration's policy intention that for the counting of quorum, an alternate director (whether internal or external) is to be counted once only to ensure that a single alternate director cannot alone constitute a quorum for a director's meeting, thus avoiding a situation where the director may make decisions on company matters in the absence of other minds. On signing of written resolutions, the policy intent of the authorities is that, for an external alternate, he is only allowed to sign for one of his appointers. For an internal alternate, he is only allowed to sign for himself or for one of his appointers. This would ensure that sufficient minds are being put to the issue to be resolved by written resolution.

The Subcommittee agreed that the relevant provisions in Schedules 1, 2 and 3 of the articles of association be amended in order to reflect the aforesaid policy intent of the authorities more clearly. In addition, the Subcommittee noted that the Government, after reviewing the Chinese text of the Notice, had proposed technical amendments for improving consistency. The Subcommittee has no objection to the proposed amendments.

Concerning the Company Records (Inspection and Provision of Copies) Regulation, section 11 provides that a company is required to provide copies of the records within five business days after the date of receipt of a request. The Subcommittee considers that the company may find it difficult to comply with the requirement within such a short duration. It will be particularly harsh for small

and medium enterprises (SMEs) which have limited resources. Noting that the lead time for provision of copy of information under the existing Companies Ordinance (CO) ranges between seven to 20 calendar days depending on the types of records and the relatively heavy penalty of a fine of $25,000 in case of the violation of section 11 under the Regulation, the Subcommittee requests the Administration to consider providing a lead time of 10 business days for provision of copies of company records. Having considered the views of the Subcommittee, the Government has promised to amend section 11(1) and substitute "5 business days" with "10 business days". The Subcommittee welcomes the Government's proposed amendment.

Regarding the Companies (Non-Hong Kong Companies) Regulation, the Subcommittee notes that the Regulation provides for the various particulars and documents to be provided to the Company Registrar in respect of a non-Hong Kong company (NHKC) as required under the relevant provisions of the new CO. The Regulation basically restates the existing requirements and arrangements applicable to NHKCs. The Subcommittee supports the Government's amendment to the Chinese text of the provisions so as to improve the drafting of the provisions.

The Subcommittee scrutinized the Companies (Revision of Financial Statements and Reports) Regulation and the Companies (Disclosure of Information about Benefits of Directors) Regulation in April this year. In response to the views of the Subcommittee and the Legal Adviser of the Subcommittee, the Administration has proposed to make a number of amendments to the two Regulations pursuant to section 34(2) of the Interpretation and General Clauses Ordinance. However, since the motion for extension of the scrutiny period could not be dealt with at the Council meeting of 24 April 2013, it was no longer possible to propose the amendments. The Companies (Revision of Financial Statements and Reports) (Amendment) Regulation 2013 and the Companies (Disclosure of Information about Benefits of Directors) (Amendment) Regulation 2013 are made by the Financial Secretary to effect the proposed amendments to the two Regulations.

The Administration has confirmed that apart from the changes to the technical amendment to the Companies (Revision of Financial Statements and Reports) Regulation, other proposed amendments to the two Amendment Regulations are identical to the amendments originally proposed by the Administration to the two Regulations. Members have no objection to the two Amendment Regulations.

Concerning the Companies (Fees) Regulation, the Subcommittee notes that the fees items under this Regulation are in line with the corresponding items or fee levels as stipulated in the existing CO. However, companies limited by guarantee will be subject to an escalating scale for late filing of annual returns, which is currently applicable to private companies limited by shares. According to the Administration, this is to encourage compliance with the statutory filing requirements by companies limited by guarantee. Furthermore, members note that certain existing fee items, such as those concerning an increase in nominal share capital or shares issued at a premium, have become obsolete and are not included in this Regulation. The Subcommittee supports the Companies (Fees) Regulation.

The Subcommittee will not move any amendment to the six pieces of subsidiary legislation.

President, on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), I will express our views as follows. The DAB supports the relevant subsidiary legislation.

The third batch of six pieces of subsidiary legislation made under the new CO prescribes and improves the administrative, procedural and technical matters for continuously facilitating company operations and reducing compliance costs. During the process, the authorities have taken into account the actual needs of companies, made reference to the consultation results in the past and listened to the views of Members before putting forward these proposals and amendments. For example, the Companies (Model Articles) Notice provides three sets of model articles for the use of different types of companies, which may decide at their own volition whether these articles be adopted or not. Compared with articles in the past, these model articles have been improved to enhance coherence, clarity and ease of reference. Furthermore, more detailed procedures for the administration of company business are provided. In respect of decision-making by directors, new articles have been added to provide for the detailed procedures for written resolutions as well as the appointment and removal of alternate directors; and in respect of the proceedings at general meetings, an article is added on the rights of directors and anyone who is not a member of the company to attend and speak at general meetings, so as to make it convenient for companies to follow when necessary.

As I mentioned in the report just now, some members have raised queries about the arrangement of how an alternate director is to be counted for the

determination of quorum at meetings and signing of written resolutions. After listening to the views of members, the Administration has modified the relevant wording so that companies can clearly understand the arrangement, thus facilitating their decision making. Another example is the Company Records (Inspection and Provision of Copies) Regulation, which proposes that companies be allowed to keep their records and registers in more than one place. The reason is that the Government, having considered members' views when scrutinizing the Companies Bill that many companies in Hong Kong flexibly keep their records and registers in warehouses, has decided to allow flexible arrangement of places by companies for keeping such records.

In addition, under the Regulation, companies are required to provide copies of company records within five days after the date of receipt of a request. The authorities have adopted the members' recommendation of replacing "five days" with "10 business days" on the ground that the former is too short, so as to mitigate the burden on these companies (especially SMEs) of complying with the relevant provisions. Such flexible and business-friendly arrangement made in response to the actual operation of companies will help improve companies' cost-effectiveness and corporate governance to a certain extent.

Given that the new requirements under the subsidiary legislation involve a lot of technical operation, the authorities should enhance the publicity of these new requirements among companies and the public. In particular, this batch of subsidiary legislation involves more procedural arrangements, and changes related to fees and disclosure of director interests are complicated. In addition, the authorities should provide clear guidelines to relevant service providers as and when needs arise. For example, when scrutinizing the Companies (Revision of Financial Statements and Reports) Regulation, a member stated that in order to facilitate the understanding of the accounting profession on the operation of the provisions in the new CO and the Companies (Revision of Financial Statements and Reports) Regulation regarding the liability of auditor in relation to contents of auditor's report for a company's original and revised financial statements, it is necessary to request the Administration to issue guidelines and offer explanation, so as to enable them to better understand and comply with the relevant requirements in the their sector.

With these remarks, President, I support the motion.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Mr WONG Ting-kwong for his speech.

As I said in my opening speech, the amendments set out in the motion have been agreed upon by the Subcommittee. I would like to move the motion and appeal to Members' support. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the first 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.

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, you may now move the second motion.

PROPOSED RESOLUTION UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the second motion under my name, as printed on the Agenda in respect of the subsidiary legislation made under the new CO for amending the Company Records (Inspection and Provision of Copies) Regulation tabled at this Council on 29 May 2013, be approved.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Company Records (Inspection and Provision of Copies) Regulation, published in the Gazette as Legal Notice No. 78 of 2013 and laid on the table of Legislative Council on 29 May 2013, be amended as set out in the Schedule.

Schedule

Amendment to Company Records (Inspection and Provision of Copies) Regulation

1. **Section 11 amended (provision of copy of company records)**

Section 11(1) —

Repeal

"5 business days"

Substitute

"10 business days "."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the second motion moved by the Secretary for Financial Services and the Treasury 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 Financial Services and the Treasury, you may now move the third motion.

PROPOSED RESOLUTION UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the third motion under my name, as printed on the Agenda in respect of the subsidiary legislation made under the new CO for amending the Companies (Non-Hong Kong Companies) Regulation tabled at this Council on 29 May 2013, be approved. Thank you, President.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Companies (Non-Hong Kong Companies) Regulation, published in the Gazette as Legal Notice No. 79 of 2013 and laid on the table of the Legislative Council on 29 May 2013, be amended as set out in the Schedule.

Schedule

Amendments to Companies (Non-Hong Kong Companies) Regulation

1. **Section 4 amended (documents to accompany application for registration)**

Section 4(4)(a), Chinese text —

Repeal

"本條例第776(4)條規定須"

Substitute
"根據本條例第776(4)條".

2. **Section 9 amended (particulars to be contained in annual return)**

(1) Section 9(1)(h)(i), Chinese text, after "姓名" —

Add
"或名稱".

(2) Section 9(1)(k), Chinese text —

Repeal
"本條例第788(1)條規定須"

Substitute
"根據本條例第788(1)條".

3. **Section 14 amended (documents to accompany a return under section 791 of Ordinance)**

Section 14(2)(a), Chinese text —

Repeal
everything after "的話))"

Substitute
"在上述更改後的經核證副本，或對該公司的組織作出規定的其他文書在上述更改後的經核證副本；或"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the third motion moved by the Secretary for Financial Services and the Treasury 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): This Council will now deal with the proposed resolution under the Companies Ordinance to approve the Companies (Unfair Prejudice Petitions) Proceedings Rules.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Financial Services and the Treasury to speak and move the motion.

PROPOSED RESOLUTION UNDER THE COMPANIES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the fourth motion under my name, as printed on the Agenda, be passed to approve the Companies (Unfair Prejudice Petitions) Proceedings Rules (Proceedings Rules) made by the Chief Justice on 9 May 2013.

The Proceedings Rules is a piece of subsidiary legislation made by the Chief Justice pursuant to section 727 of the new Companies Ordinance (CO), and it is subject to positive vetting by the Legislative Council. It seeks to prescribe the proceedings of the Court of First Instance (the Court) on unfair prejudice petitions.

If a current or past member of a company considers that the company's affairs are being or have been conducted in a manner unfairly prejudicial to the interests of the members, or a proposed act or omission of the company would be so prejudicial, the member may present a petition to the Court for an order to

remedy the situation. Such a petition is generally known as an unfair prejudice petition. While the requirements concerning unfair prejudice petitions are provided in detail in the principal legislation of the new CO, the Proceedings Rules sets out the rules for the proceedings on such petitions, covering the following four areas:

(a) on the presentation of petition, the Proceedings Rules provides that the petition must be in the form as prescribed in the Schedule. The grounds for presentation and the terms of the order sought must also be specified in the petition;

(b) the Proceedings Rules also provides that the petitioner must serve copies of the petition on the company and other respondents within a specified period. The Court will fix a return day on which all parties must attend before the Court for directions in relation to the procedure on the petition;

(c) the Court may give directions on procedural and other matters on or after the return day. The Proceedings Rules sets out clearly those matters on which directions may be given; and

(d) on the pronouncing of the order in the Court, the order must be drawn up and served in accordance with the Proceedings Rules.

The above rules are made by the Chief Justice. They are generally modelled on the relevant provisions in the Companies (Winding-up) Rules and the Practice Directions of the Judiciary, with the addition of a number of technical provisions. For example, one provision is added to specify that if the Court requires the order to be advertised, it must give directions as to the manner and time of advertisement. Another provision is added to set out how the Companies (Winding-up) Rules and the Proceedings Rules will apply if a petition includes the seeking of an order to wind up the company concerned. These technical provisions will facilitate the handling of different cases.

President, the Proceedings Rules is a piece of technical subsidiary legislation made by the Chief Justice under the new CO. The set of rules has been thoroughly scrutinized by the relevant Subcommittee of the Legislative Council. I hope that Members will support the passage of this motion to

facilitate the implementation of the new CO. I move that the motion be passed by the Legislative Council to approve the Proceedings Rules made by the Chief Justice. Thank you.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Companies (Unfair Prejudice Petitions) Proceedings Rules, made by the Chief Justice on 9 May 2013, be approved."

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 WONG TING-KWONG (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Subsidiary Legislation Made under the New Companies Ordinance (the Subcommittee), I submit to the Legislative Council the report of the Subcommittee on its scrutiny work in respect of the Companies (Unfair Prejudice Petitions) Proceedings Rules (the Proceedings Rules) made for the implementation of the new Companies Ordinance. The Proceedings Rules is made by the Chief Justice and subject to positive vetting by the Legislative Council. The Subcommittee has held one meeting to discuss and scrutinize the provisions and has received a submission from The Hong Kong Institute of Directors.

The Subcommittee has noted that the Proceedings Rules mainly re-enacts the procedural requirements on unfair prejudice petitions regulated by the Companies (Winding-up) Rules (Winding-up Rules) with appropriate modifications and elaborations. The Subcommittee has examined the application of the Winding-up Rules and Proceedings Rules to an unfair prejudice petition which contains an alternative application, that is, the petition includes seeking an order to wind up the company concerned as an alternative remedy. The Administration explains that rule 3 of the Proceedings Rules already explains clearly the requirements concerned. The general principle is that the Winding-up Rules apply whenever the petition contains an alternative application. If the Winding-up Rules are applicable to the proceedings of a

petition, they also take precedence over the Proceedings Rules in the event of any inconsistency between them.

Some members have expressed concern about the application of the two sets of rules in the case that an unfair prejudice petition originally does not include an alternative application at the time of presentation but the petitioner subsequently seeks to amend the petition to add a prayer for a winding up order. The Government explains that the amendment requires the leave of the Court of First Instance. However, the typical position of the Court of First Instance is to require a fresh winding-up petition be presented instead of granting the leave. It follows that the proceedings on the fresh petition will then be subject to the Winding-up Rules only.

Some members have enquired about the reasons for not specifying a time limit for compliance by the petitioner to serve an office copy of the order on the company. The Administration explains that pursuant to section 70 of the Interpretation and General Clauses Ordinance, where no time is prescribed or allowed within which anything shall be done, such thing shall be done without unreasonable delay. Moreover, as the petitioner must duly serve the order on the company before the order is enforced, the petitioner will have the incentive to ensure the timely service of the office copy of the order on the company. Therefore, the Administration considers that it is unnecessary to provide for the time limit of serving the copy of the order.

The Subcommittee supports the Administration to move a motion to seek the Legislative Council's passage of the Proceedings Rules.

President, I will present the following views on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

As far as unfair prejudice petitions are concerned, the existing Companies Ordinance provides that members of a company may petition to the Court of First Instance for remedies if the company's affairs are being or have been conducted in a manner unfairly prejudicial to the interests of any member of the company. The new Companies Ordinance restates the relevant arrangement and expands it to cover circumstances where a proposed act or omission of the company would be so prejudicial. The Proceedings Rules aim to restate the form and presentation of a petition, as well as the drawing up and the service of an order under the Winding-up Rules, and make the relevant amendments. The

Proceedings Rules will be issued as another set of rules, and are better and more suitable than before to make it more convenient for petitioners to seek remedies for unfair prejudice. DAB supports the Proceedings Rules.

Moreover, the aforesaid report talks about the unfair prejudice petition containing an alternative application and the application of the Winding-up Rules and Proceedings Rules. To help the petitioners to have a clear understanding about the application arrangements of the two sets of rules and reduce their confusion, the Administration should step up the elaboration of the relevant rules among the public at the time of their implementation in future.

With these remarks, President, I support the motion.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Mr WONG Ting-kwong for his speech.

As I have said in my opening speech, this set of rules seeks to prescribe the proceedings of the Court of First Instance on unfair prejudice petitions, most provisions of which are in line with the existing arrangements prescribed under the Companies (Winding-up) Rules or the Practice Directions of the Judiciary. We find it necessary to make this set of rules before the implementation of the new Companies Ordinance to tie in with the operation of the relevant provisions, so as to ensure that the Judiciary can continue to handle unfair prejudice petitions after the new Companies Ordinance has come into operation.

President, this set of rules has been scrutinized thoroughly by the Subcommittee, which has expressed support for it. I hereby move this motion

and invite the Legislative Council to approve the Companies (Unfair Prejudice Petitions) Proceedings Rules made by the Chief Justice. Thank you, President.

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.

PRESIDENT (in Cantonese): This Council will now deal with the two proposed resolutions under the Mandatory Provident Fund Schemes Ordinance.

The first motion seeks the Council's approval for the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013.

The second motion seeks the Council's approval for the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013.

PRESIDENT (in Cantonese): As the two notices under the two motions are made in accordance with the Mandatory Provident Fund Schemes Ordinance and were scrutinized by the same subcommittee, this Council will proceed to a joint debate on the two motions.

I will first call upon the Secretary for Financial Services and the Treasury to speak on the two motions and move the first motion. When the debate comes to a close, this Council will first vote upon the first motion, and then the second

motion. Whether or not the first motion is passed will not affect the moving of the second motion by the Secretary.

PRESIDENT (in Cantonese): This Council will now proceed to a joint debate. Members who wish to speak on the two motions will please press the "Request to speak" button.

I now call upon the Secretary for Financial Services and the Treasury to speak and move the first motion.

PROPOSED RESOLUTION UNDER THE MANDATORY PROVIDENT FUND SCHEMES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I will propose two motions under the Mandatory Provident Fund Schemes Ordinance (MPFSO) in the Legislative Council today.

Firstly, I move that the first motion as printed on the Agenda be passed. The motion seeks to amend the minimum level of relevant income (Min RI) specified in Schedule 2 to the MPFSO.

Under the MPFSO, an employer and an employee must, unless exempted, each contribute 5% of the employee's relevant income to a Mandatory Provident Fund (MPF) scheme as mandatory contribution. If the relevant income of the employee is less than the Min RI, he is not required to make MPF contribution himself, although his employer still has to make MPF contribution for him. For an employee whose relevant income is above the maximum level of relevant income (Max RI), both he and his employer are not required to make mandatory contribution in respect of the excess relevant income. These requirements also apply to self-employed persons.

The purpose of stipulating Min RI is to lessen the financial burden of MPF contributions on lower-paid employees and self-employed persons. Section 10A of the MPFSO sets out the factors to be considered in stipulating Min RI, including 50% of the monthly median employment earnings as compiled from the

General Household Survey conducted by the Census and Statistics Department. In view of the implementation of the statutory minimum wage on 1 May 2011, the Mandatory Provident Fund Schemes Authority (MPFA) is reviewing the mechanism for adjusting the relevant income levels. The existing Min RI of $6,500 was set with reference to, among other things, the first statutory minimum wage rate of $28. Therefore, in view of the increase of statutory minimum wage rate to $30 effective from 1 May 2013, we propose to follow similar methodology for adjusting the Min RI in 2011, which makes reference to the statutory minimum wage level, and increase the Min RI to $7,100, pending the updating of the adjustment mechanism.

Apart from the monthly Min RI, the MPFSO also specifies a daily Min RI for casual employees who are members of an industry scheme and employees who receive payment of wages more frequently than on a monthly basis, and an annual Min RI for self-employed persons. The motion introduces corresponding amendments to the daily and the annual Min RI, that is, from $250 to $280 and from $78,000 to $85,200 respectively.

To tie in with the adjustment to the Min RI, the MPFA is making consequential amendments to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order. The corresponding amounts of MPF contributions applicable to employees who are members of industry schemes under different income bands will be updated with reference to the latest Min RI to facilitate compliance by employers and employees.

Regarding the effective date, as it takes time for both employers and trustees to adjust the payroll systems and MPF scheme administration systems, and for the MPFA to publicize such arrangements, the Government accepts the MPFA's suggestion and proposes to implement the new Min RI on 1 November 2013.

Our proposal has taken into account comments from different sectors of the community, and will suitably lessen the financial burden of MPF contributions on lower-paid employees. Moreover, the Subcommittee set up by the House Committee of the Legislative Council to scrutinize the amendments to the relevant subsidiary legislation also supports increasing the Min RI and Max RI. President, I invite Members to support the motion for amending the Min RI.

As for the second motion proposed by me today, it seeks to amend the Max RI in various categories as set out in schedule 3 to the MPFSO.

I have just explained the application of the relevant income levels under the MPF system when I moved the motion to amend the Min RI, so I am not going to repeat that here. The policy objective of stipulating Max RI under the MPFSO follows the goal of the MPF system to assist the workforce in saving for basic retirement needs. Higher-income employees and self-employed persons may decide whether to top up their retirement savings through voluntary contributions or other investment apart from making mandatory contributions.

Section 10A of the MPFSO provides that Max RI must take into account the monthly employment earnings at 90th percentile of the monthly employment earnings distribution as compiled from the General Household Survey conducted by the Census and Statistics Department. Based on this factor, the Max RI should have been increased to $30,000 in the 2011 adjustment exercise. However, in the course of consultation, some employers' associations claimed that business cost had gone up considerably due to the implementation of the statutory minimum wage while some employees said that they did not want a sharp increase in Max RI. The Government, having balanced the comments from various parties, only increased the Max RI from $20,000 to $25,000.

Considering that the 90th percentile of the monthly employment earnings has risen to $35,000 as at the third quarter of 2012, which is higher than the current Max RI of $25,000 by $10,000, we proposed to increase the Max RI to $30,000 to achieve a greater coverage of income distributions. The new level will take effect from 1 June 2014 in response to the views collected during the consultation, and to allow more time for employees, employers and self-employed persons to adapt to the changes.

On the daily Max RI, we propose to adopt the current 30-day basis for conversion and increase the daily Max RI from $830 to $1,000 accordingly. As for the annual Max RI for self-employed persons, we propose a corresponding increase from $300,000 to $360,000.

The MPFA is making consequential amendments to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order to amend

the Max RI applicable to casual employees. In addition, we aim to introduce a bill for amending the Inland Revenue Ordinance into the Legislative Council in the next Legislative Session, with a view to increasing the maximum amount of allowable deduction for mandatory contributions by employees and self-employed persons.

President, as I have mentioned earlier, the Subcommittee set up by the House Committee broadly supports increasing the Max RI. I would like to take this opportunity to thank the Chairman, Mr WONG Ting-kwong, and members of the Subcommittee for their valuable contribution in the course of scrutinizing the amendments. The Government and the MPFA will take into account their opinions when reviewing the adjustment mechanism for the Min RI and Max RI.

Lastly, I invite Members to support the two motions for amending the Min RI and the Max RI.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013, made by the Chief Executive in Council on 28 May 2013, be approved."

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 WONG TING-KWONG (in Cantonese): President, I first declare that I am the Chairman of the MPF Schemes Advisory Committee of the Mandatory Provident Fund Schemes Authority (MPFA).

I now make a report in my capacity as the Chairman of the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 and Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013. The Subcommittee has held one meeting and completed the deliberations on the two Notices.

The Subcommittee noted that under the Mandatory Provident Fund Schemes Ordinance (MPFSO), an employer and a relevant employee must, unless exempted, each contribute 5% of the employee's relevant income to a Mandatory Provident Fund (MPF) scheme as mandatory contribution. A self-employed person must also contribute 5% of his relevant income to a MPF scheme. However, if the relevant income of the employee or self-employed person concerned is less than the prescribed minimum level of relevant income (Min RI), he is not required to make mandatory contribution himself, although his employer (in case of an employee) still has to make mandatory contribution for him. The current prescribed Min RI is $6,500 per month, which has taken effect since November 2011. On the other hand, for a relevant employee or self-employed person whose relevant income is above the prescribed maximum level of relevant income (Max RI), both he and his employer (in case of an employee) are not required to make mandatory contribution in respect of the excess relevant income. The current prescribed Max RI is $25,000 per month, which has taken effect since June 2012.

The Subcommittee noted that section 10A of the MPFSO requires the MPFA to conduct a review of the Min RI and the Max RI at least once in every four years to ascertain whether there are grounds to amend the levels. The Subcommittee noted that the Administration had adopted the recommendation of the MPFA and made reference to the new statutory minimum wage rate of $30 per hour, the latest statistics on the median daily working hours of the four low-paying sectors (which are nine hours), while assuming a 26-working day per month arrangement for determining the new monthly Min RI of $7,100. As to the new daily Min RI of $280, the Administration had followed the practice adopted in the last amendment to assume a 26-day basis in converting the new monthly Min RI into a new daily income level as the new daily Min RI.

The Subcommittee supported in principle the proposal of the Administration to increase the prescribed Min RI for MPF mandatory contributions from $6,500 to $7,100. The Subcommittee noted that increasing the Min RI can lessen the financial burden of MPF contributions on lower-paid employees. The Subcommittee agreed that this proposal should take effect from 1 November 2013.

Regarding the Max RI, the Administration proposed in 2011 that the level be increased from $20,000 to $30,000 from June 2012 but the Administration then received comments from employers' associations that the business sector,

especially small and medium enterprises (SMEs), were digesting the cost implications of the statutory minimum wage and absorbing an increase in Max RI would be difficult. On the other hand, however, there were also views that the Max RI had not been adjusted from the introduction of the MPF System in 2000 to 2011 and there was a need to increase savings for the employees. The Administration, therefore, increased the Max RI to $25,000 in June 2012 first.

The Subcommittee also noted that the 90th percentile of monthly employment earnings intended in the MPFSO for review of the Max RI already reached $35,000 as at the third quarter of 2012. The Administration, therefore, accepted the recommendation of the MPFA to take the opportunity to increase the monthly Max RI from $25,000 to $30,000 to achieve a greater coverage of income distributions. With respect to the daily Max RI of $1,000, the Administration continued to adopt a 30-day basis in converting the new monthly Max RI into a new daily income level as the new daily Max RI, which is $1,000 per day. The Subcommittee also agreed with the Administration's proposal to increase the Max RI to $30,000 from June 2014 onwards.

The Subcommittee supports the resolutions proposed by the Administration on the two Notices, and we will not propose any amendment.

Next, I will put forward views on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

In fact, the two Notices are very simple as they seek to make adjustments to the Min RI and Max RI for MPF contributions. Given that the new minimum wage rate has increased to $30 per hour, the Min RI for contributions must be adjusted accordingly to prevent a possible decrease in the actual wages of low-income earners. As for the adjustment of the Max RI, an increase of the Max RI was proposed in 2011 but in order not to put too heavy a burden on employers of SMEs, the adjustment was proposed to be made in two stages, so as to reduce the operational cost of employers of SMEs. Therefore, the increase of the Max RI proposed now is to give effect to the result of the deliberations made in 2011. So, the DAB supports the two Notices on the amendments to schedules for responding to actual social changes and implementing the decision made from previous deliberations respectively.

The updated Min RI and Max RI will be implemented in November 2013 and June 2014 respectively, two years after the coming into force of the relevant

previous adjustment. The DAB considers that this is appropriate. Some members questioned why it is impossible for the two income levels to come into force simultaneously. Since trustees and employers need to adjust their systems and procedures for changes in their contributions, owners of SMEs will find it difficult to absorb cost increases in a short time, and some employees will need to make extra contributions, sufficient time should be given to them for making preparations and adjustments. After the passage of the resolutions, the Administration should expeditiously carry out follow-up work and make publicity efforts to enable them to be aware of the relevant amendments.

Moreover, some members asked the Administration whether it has reviewed the statutory adjustment mechanism for the Min RI and Max RI. As the MPFA is reviewing and studying the relevant mechanism and a consultation exercise will be conducted later, we call on the Administration to submit the review results and proposals to the Legislative Council for discussion as soon as they are available.

With these remarks, President, I support the motion.

MR TANG KA-PIU (in Cantonese): President, I have always been very concerned about the Mandatory Provident Fund (MPF), and that was why when I had a valuable opportunity to move a Members' motion in the Legislative Council this year, I chose the topic "Comprehensively reviewing the Mandatory Provident Fund Scheme" for my motion. This motion was put forward on 9 January this year, and although my original motion and the four amendments were all negatived in the end, I believe society will still continue to follow the MPF with great concern.

As the Secretary said earlier on, the MPF should ultimately be the basic protection for "wage earners" after their retirement. On the provision of protection to the labour sector or workers, employers are always hesitant, even to the extent of saying no, and workers would express their welcome with applause. But the MPF is an exception …… The Secretary was right in saying that some employees are hesitant too, because any further increase in the maximum level of relevant income will mean that they must put a greater portion of their wages into the MPF. They are hesitant. Why? The reason has to do with the effectiveness of the MPF.

The Hong Kong Federation of Trade Unions supports the resolutions, meaning that we support an adjustment to both the statutory maximum income level and the statutory minimum income level, and we also support the establishment of a clearer adjustment mechanism under which the relevant levels are adjusted according to changes in the minimum wage. However, we do not agree that the law should rigidly require a review to be conducted every two years, though it seems that adjustments of the relevant income levels under the MPF system are made biannually. The labour sector is of the view that rather than having a review every two years, the minimum wage should be reviewed annually. The practice of conducting biannual reviews under the MPF system is arbitrary, so if the minimum wage is made to follow suit, I must say that the whole thing is inappropriate. We in the labour sector have made it very clear that the minimum wage must respond to the needs of society, the economy and people's livelihood, so it should be reviewed annually.

Let me return to employees' hesitation about the MPF, the point I mentioned just now. Not only the grassroots are hesitant; the middle class and perhaps even the reporter who did the interview with me just now are likewise hesitant. Whenever they look at their MPF accounts, they will be very confused because they cannot understand anything and simply do not know how to choose.

What will be the effects of the resolutions? Let me say a few words here. Admittedly, as the Chairman of the Subcommittee and the Secretary have just said, in the case of low-income workers who are now required to make contributions, if their monthly incomes are lower than $7,100, they will not be required to make any contributions due to the increase in the minimum level of relevant income, and some self-employed persons likewise will not need to make contributions. Therefore, the total amount of monthly MPF contributions made by this group of people will be reduced by around $21 million; and of course, this figure is provided to us by the Government. However, since the maximum level of relevant income will be increased at the same time from $25,000 — I also set the maximum level at $25,000 — to $30,000 per month, there will be huge impact because it is estimated that an additional $194 million of contributions will be injected into the MPF market per month. In other words, once the adjustments come into force, and after deducting the decrease in contributions from the increase, the total amount of additional contributions in the MPF market per month will be $172.94 million, or an estimated sum of $2 billion per annum. And, of course, if wages grow further and more people become high-income earners, the amount will be even bigger. In fact, the rate of increase here will be

very high, as high as 4%. In the first quarter of 2013, the amount of MPF contributions was $13.44 billion, meaning $4.4 billion per month on average. Now, if the monthly contributions really increase by $170 million as aforesaid, the adjustments will in effect bring forth a 4% increase in the injection into the MPF.

No one can deny that the fees of MPF schemes are on the high side now. Both the Government and the Mandatory Provident Fund Schemes Authority (MPFA) have a theory on this point. What is this theory? They hold that the pool of MPF (or the total assets of MPF) is not large enough — the amount is actually not small at all, as it now stands at $440 billion, not $44 million — They hold that $440 billion is still not large enough, and that it has to be further increased. They say that it must be further increased in order to strike a balance, and the fund expense ratio will then drop. In this connection, I very much hope that the Secretary, who is an academic, can make a forecast in his response later. Given the injection of an extra 4% of monthly contributions into the MPF market and the consequent increase in MPF assets, what will be the decrease in the average fund expense ratio, which now stands at 1.72%? If he cannot give us an answer, the wage earners will be hesitant, just as he said earlier on. This is obviously an issue relating to labour rights and interest and it will enhance the basic protection for workers after retirement, so why should workers be hesitant anyway? The only reason is that they cannot see any result, and they are like being caught inside a black hole.

The "semi-portability" arrangement for MPF promoted by the Administration some time ago is one example. We all know that the "semi-portability" arrangement has received only lukewarm response, with the number of applications gradually dropping. As far as I understand, in the first few months after the introduction of this arrangement, over 15 000 applications could be received in a month and now, the number has basically fallen to about 10 000 a month. I wonder how the Administration sees this result. Does it think that this is all expected because the Government has kept telling wage earners to check clearly first and refrain from switching to another scheme hastily? Or, does the Administration find it too embarrassing to admit that the results are really bad? But more importantly, the rationale behind the "semi-portability arrangement" is to offer choices and therefore encourage competition, in the hope of lowering the average fund expense ratio (or the management fees of the fund). However, it seems that this effect has not yet been achieved. Although the resolutions proposed today are mainly about the

maximum and minimum levels of relevant incomes for contributions, we nonetheless hope that the Secretary can still respond to these issues because we understand that the Financial Services and the Treasury Bureau may conduct a more thorough review or consultation exercise in the second half of the year.

Concerning employees' hesitation and inability to make choices, I must say that such hesitation is found not only among employees but also among Members. I asked a written question at the meeting of the Legislative Council on 24 April 2013. It was a very simple question but the Government could not answer it. My question was on the amounts received by people who withdrew their accrued MPF benefits (retirees) in the past 12 years — were such amounts larger than the net amounts of contributions (which means gains)? Or, were such amounts less than the net amounts of contributions (which means losses)? To put it simply, suppose 500 000 people withdrew their accrued MPF benefits upon their retirement, how many of them made gains and how many of them suffered losses? The Government could not give an answer. The Government replied very honestly, and the staff of the MPFA also said very clearly, that such information was kept by trustees, and if trustees could not or did not furnish such information to the Government, the Government would be unable to give any answer.

That is why wage earners have hesitation, and Members also have hesitation. The Government claims that the average annual return rate is 4%. But does this mean that when each and every employee retires, he or she will be able to receive returns at this rate — let us put aside the question of whether 4% is high or low? The Government is unable to give an answer. The Government must first sort out these questions before it can inspire confidence in wage earners and make them willing to put more money, that is, the 5% contribution made by employers plus the 5% contribution made by themselves, into the MPF when the maximum level of relevant income is further increased to $35,000. But everybody is unwilling to do so now because they do not know the effectiveness of putting money into the MPF. The Government must address these questions, and we think that these questions are most fundamental.

Because industry schemes designed for industries hiring daily-rated employees were raised for discussion just now, I must also make it a point to put forward the request of some tourism industry employees (tour escorts and tour guides) on their behalf. For reasons of how the tourism industry operates, that

is, the practice of "casual employment", many tourism industry employees may serve as tour escorts for three or four travel agencies in a month, so it is very difficult for them to establish an employment relationship spanning 60 days; or perhaps employers simply do not want to make any special efforts to establish such a relationship with them. For this reason, these employees have asked whether an industry scheme can also be introduced for the daily-rated employees in the tourism industry. They have put forward this request. Although this may not be directly related to the resolutions, I hope that the Government can still give further thoughts to it.

Lastly, I would like to say that the Chairman of the MPFA, Ms Anna WU, is indeed very sincere. She published a research report on 26 November 2012 and called for a reform of the MPF system. One of the points that she made is of our utmost concern: As the Chief Executive has vowed to gradually lower the offsetting ratio, we expect that the arrangements to be made after this change can facilitate the early implementation of a full portability arrangement for MPF. Ms Anna WU considers that the abolition of the arrangement for offsetting the severance payment and long-service payment by employers' MPF contributions can facilitate the implementation of full portability for MPF. The view of the labour sector is even simpler, for we hold that the offsetting arrangement must be abolished. It must be abolished whether or not there is any full portability for MPF. Why? This boils down to a point made by the Secretary earlier on: This is basic protection.

In the written question I raised on 20 February 2013, I also asked about the total amount of MPF benefits which have been withdrawn for offsetting over the years. The answer is $18.7 billion, which is even higher than the total amount of benefits withdrawn for reasons of retirement over the years. It means that the MPF benefits are used by employers as savings for severance payment and long-service payment, rather than the provision of retirement protection. We all have misgivings about the effects and uses of the MPF. In view of this, since the Chief Executive has made this point clear in his election manifesto and the Chairman of the MPFA, Ms Anna WU, has also made an appeal, we very much hope that these issues can be addressed one by one in the consultation report to be released by the Financial Services and the Treasury Bureau in the second half of the year. Of course, the Secretary can respond immediately to these issues today. That way, the Government can rebuild our confidence in the MPF system, and the next time when it proposes to increase the maximum level of

relevant income from $30,000 to $35,000 in the future, we will give our warm welcome and a big applause — because we will have confidence in the MPF at long last.

I so submit. Thank you.

MR LEE CHEUK-YAN (in Cantonese): President, we in the Labour Party will not oppose this motion, because the authorities propose to increase the Maximum Relevant Income Level from $25,000 at present to $30,000, and this will improve the well-being of employees who are earning a monthly salary between $25,000 and $30,000. Nevertheless, despite our support for the motion, we sometimes still think that the whole thing is actually meaningless. Frankly speaking, many people think that even if more contributions are made to their Mandatory Provident Fund (MPF) accounts, how much they can get upon retirement and whether they can get anything at all are still largely unknown.

As we can now see, MPF administration fees are very high. As computed by some, the accrued benefits which a retiring wage-earner can pocket after working for 40 years will only be 60% of his total MPF contributions over the years, and almost 40% of the contributions are paid as administration fees. In that case, what is the point of implementing the MPF system — helping the workers or helping large consortia?

We have talked about this problem for numerous times, and I do not intend to speak too much on it today. However, the entire MPF system is really plagued with problems. The aspect that draws the severest criticism is the charging of high administration fees. This is by far the greatest dissatisfaction felt by the most people. What is the point of benefiting all those trustees, banks, insurance companies and large consortia, while workers are unable to get adequate benefits and protection?

The second criticism, also a problem we have talked about many times, is about the use of MPF contributions to offset severance payments and long-service payments. I think the case here is very clear. This is nothing but a downright exploitation of workers, in the sense that even if workers make more MPF contributions, the money will only be used by employers for meeting severance payments in the future, not for supporting workers after their retirement. The system is simply unreasonable. The Government always claims that MPF is a form of retirement protection for people, so even if they lose their jobs before their retirement, they are not allowed to withdraw any accrued MPF benefits; no

matter how difficult their lives are, the Government will not allow them to do so all the same, because it is meant for retirement. But then, employers are allowed to use the contributions for meeting severance payments. What is the logic of this? Employers can do anything but workers can do nothing, and at the end, workers get nothing. It is just that simple.

Therefore, the entire MPF system is diseased, plagued with problems. If the Secretary cannot solve the problems and the Government simply keeps on implementing it, the MPF system will continue to come under criticisms. MPF contributions will be made by tearful people, and account statements will be read by people who are even more tearful, as there are heavy losses.

That the whole system has been reduced to such a state is something very unreasonable. We maintain that the building of a satisfactory retirement scheme is of very great importance. As always advocated by the Labour Party, the first step is of course the implementation of universal retirement protection. But we do not preclude the MPF system. In most parts of the world, a MPF system is implemented alongside a universal retirement protection system. The two systems co-exist. But there is no universal retirement protection in Hong Kong, and we think the MPF system is plagued with problems.

If we go on like this …… The Labour Party maintains that a universal retirement protection system should be established as soon as possible. Actually the MPF system can be improved in one way or another. First, the Government may act as a trustee. If the Government becomes a trustee, administration fees can be depressed to the lowest possible level as a means of competing with banks.

Second, MPF schemes should be allowed to peg with the return on investment (ROI) of the Exchange Fund. The investment returns of both the Community Care Fund and the Environment and Conservation Fund are pegged with the ROI of the Exchange Fund. Why should the MPF be an exception? Why can't we introduce a product called "Exchange Fund-linked MPF" operated by the Exchange Fund with the Hong Kong Monetary Authority responsible for the returns, so that everybody can invest in it? The ROI of the Exchange Fund has a good track record of investment, always attaining the levels of 5% to 6%. This is far better than the performance of other products in the market. The reason is that most products in the market are just like a roller-coaster, in the sense that if investments are made in high-risk products, the loss could be as high as 10% to 20%, and if market conditions are good, the rate of return may be 10%. But one will only know how much he earns or losses until he settles the account in the end.

We maintain that the authorities should perfect the MPF system in various ways, including what I have just suggested: having the Government to serve as a trustee, introducing a product called "Exchange Fund-linked MPF", and abolishing the use of MPF contributions to offset severance payments. All this is to be supplemented by the implementation of a universal retirement protection scheme. I think that this is something a government with a sense of commitment and responsibility should do.

But this Government has all the time evaded its responsibility. The LEUNG Chun-ying administration is irresponsible, and so are the administrations of Donald TSANG and TUNG Chee-hwa. And, Secretary Prof K C CHAN is the most irresponsible of all because his work has spanned two terms of government. So far, he has just been doing the improvement work at a snail's pace, and he has not been serious in reforming the entire system all along. I am deeply disappointed and dissatisfied with this. Therefore, if the Secretary wants himself to be remembered fondly in history, he must first seek to avoid infamy. Thank you, President.

MR TOMMY CHEUNG (in Cantonese): President, before I speak I should say that sometimes I too can get along with Mr LEE Cheuk-yan, and we can even have some sort of co-operation over this "Yan Yan Café" thing. The reason is that we at least share some common views on insurance and the Mandatory Provident Fund (MPF). I am not saying that we agree on the introduction of universal retirement protection. I only mean that we both share the dissatisfaction of employees, especially those from the middle class, with the returns and exorbitant administrations fees of MPF.

President, the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 seeks to revise the Minimum Relevant Income Level (Min RI) to $7,100 per month, thus enabling people whose incomes are lower than the Min RI to continue to be spared the burden of making MPF contributions. I therefore support this Notice. But I am not agreeable to the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 because it proposes to raise the Maximum Relevant Income Level (Max RI). In fact, about a year and a half ago when the Government proposed to introduce a change to MPF contributions by increasing the Max RI by $5,000 to $25,000 per month in June 2012, I already voiced my objection. The authorities have once again proposed to increase Max RI by $5,000 to $30,000 today, so I will also likewise voice my opposition.

The authorities often claims that all affected employees and employers are each required to pay an extra MPF contribution of $250 only, and the effective date will be deferred to 1 June next year, so the financial impact of the revision on them would not be that significant. The point is that every time, the authorities will say the increase is just very small. But when all the small increases are added together, I must say, they will become very substantial and produce very great impact, especially on small and medium enterprises (SMEs).

Moreover, after forcing people to make more contributions …… Unlike Mr LEE Cheuk-yan, I will not say large consortia are the greatest beneficiaries. As a matter of fact, not too many large consortia will be benefited, and the true beneficiaries are instead banks, funds and the insurance sector. The reason is that regardless of market conditions and whether there are losses or gains, there is always a fresh injection of money into the markets of shares, securities and currencies, and they can also charge extra management fees and administration fees. The main thing is that in recent years, MPF returns have been very poor despite the exorbitant fees and charges, and since the "semi-portability" of the MPF has been in place, we have not yet seen any reduction of fees by intermediaries. I think that like me, many wage-earners are very dissatisfied.

Earlier this month, the survey findings of a fund research company showed that in the wake of global market turbulence, MPF investment returns recorded negative figures for two months in a row, with an average loss of 3%. A track index on MPF performance also registered the highest single-month plunge in 13 months, thus eroding all the returns achieved in the first half of the year. Although the accumulated deficit for the first half of the year was less than 1%, each wage-earner still had to suffer a loss of almost $1,000 on average. The MPF investment returns in recent years can hardly give people any confidence. Although the year 2012-2013 recorded an average overall gain of 6.4%, the year 2010-2011 however recorded an average overall loss of 5.6%. The prospect of the coming year is even less optimistic. After deducting management and administration fees, there may be nothing left at all. We will be very lucky if there are no losses.

Of course, there are ups and downs in the market, and MPF is a long-term investment that should not be assessed on the basis of short-term returns. For that reason, I basically do not oppose the idea of using MPF to force low-income grass-roots employees to make savings and enlarge such savings of theirs through investments, so that they can enjoy some basic protection after retirement.

However, it will be a different story with employees earning a monthly salary of $20,000 to $30,000. Most of them are middle management people relatively well-versed in financial management or even investment. If they are to make their own investment, the returns they get may often be higher than what they can get from MPF investments. The most important thing is that they are more independent and would prefer having the money in their own pockets. After all, this is more flexible and can enable them make investment according to their own needs in life and through channels they are familiar with. In fact, I have not heard any particularly vocal demand for increasing MPF contributions from employees earning a monthly salary of $20,000 to $30,000. Quite the contrary, when these people once again heard that more than $200 would be deducted from their incomes for MPF contributions purpose, they simply frowned in disapproval. One must know that in recent years, the inflation in Hong Kong is very serious, and the prices of all things are rising. Middle-level employees are entitled to very few benefits but must shoulder very heavy expenditure. So, even though they do not use the $100 or $200 for investment, putting the money in their pockets is always better than contributing it to their MPF accounts that yield such low returns.

Employers, especially SME owners, are especially against the increase. In the case of the catering industry, for example, we have pointed out recently that business turnovers in the past six months all recorded single-digit or even double-digit decline against the same period last year. I am talking about business turnovers. In fact, over the past two years, the operating costs of the catering industry, such as wages, rents and prices of food materials, have all soared, thus exerting huge pressure on business operation. In May this year, the minimum wage was increased by $2, and the costs of transportation, table cloth washing, management fees and employee insurance will certainly increase following the general increase in wages. Now, the authorities are saying that in June next year, the MPF contributions for some 400 000 employees will be increased. All the increases here and there will add up to a big sum. Many businesses in the industry really cannot absorb all these increases.

To sum up, the MPF system can only offer a very minimal form of retirement protection for employees. Since the investment returns of MPF are unsatisfactory and management fees are so high, I cannot accept any move to force employees with higher independence to make more contributions and anything that adds to the operating costs of the business sector. For this reason,

I will vote against the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013.

President, I so submit.

MR WU CHI-WAI (in Cantonese): President, the Mandatory Provident Fund (MPF) is originally intended to protect the living of wage-earners after their retirement, but these resolutions have, on the contrary, highlighted the absurdity of the MPF system.

The motion proposes to increase the Maximum Relevant Income Level (Max RI) for MPF contributions from $25,000 to $30,000 per month. As Mr Tommy CHEUNG has said, this group of middle-class people with middle or higher income are very accustomed to making investments and they actually do not need to pay fund managers to manage their assets, and increasing their MPF contributions will only make them feel that all is intended to benefit fund managers. Likewise, to the employers, increasing the Max RI will certainly mean that they have to pay extra contributions.

Increasing the Minimum Relevant Income Level for MPF contributions is good news to the low-income earners because some of them may then be freed from the shackles of the MPF, in which case they will no longer need to pay for the services of MPF fund managers and have any worry that their employers may use the employers' contributions to offset long-service payments.

President, I think many colleagues in this Chamber will agree that the MPF system is generally not welcomed by the public. The exorbitant administration fees of MPF funds and the mechanism for offsetting long-service payments have aroused public dissatisfaction. The public have come to hate the MPF system to such an extent that they simply do not bother about any losses.

As the charging of service fees is not linked to MPF performance and how fees are charged is not transparent, fund managers can still charge fees whether they are making profits or losing a lot of money. The Mandatory Provident Fund Schemes Authority (MPFA) has kept educating the public that they must monitor the performance of MPF funds and make careful choices. But in reality, especially when the stock market has been in the doldrums over the past

few years, apart from turning a blind eye to all the losses or looking at their losses in great pain, what else can the public do and what other choices are available to them?

I have recently read a commentary written some years ago on some estimates of MPF fees. Between the year 2000 and December 2011, more than 2 million employees and employers made contributions totalling HK$310 billion and after deducting the fees, the net return was $44.5 billion. During these 11 years, the fees charged by MPF trustees and fund companies were estimated to be close to $40 billion, which is very frightening. Of course, after we learned of this figure, we already urged the MPFA to take forward the portability arrangement for the MPF, in the hope that management fees could be lowered through market competition. But can this be achieved in reality? In fact, it is doubtful.

These figures all point to a simple truth: fund managers will always charge large amounts of fees first before everything, whether in times of a boom or during the financial turmoil, or whether they have made gains or recorded losses. Fund companies and managers are sure to be the winners in all cases.

Last year, the MPFA rolled out the "semi-portability" arrangement for the MPF to increase the transparency of MPF fees. But as at May this year, only less than 70 000 wage-earners who were MPF scheme members had switched or consolidated their accounts, which means that less than 3% of employees chose the "semi-portability" arrangement in an attempt to straighten out their MPF accounts. I wonder if the MPFA has ever looked into the reason. Is it only a problem with publicity? Or, is it because the public have already lost all confidence in the system, to the extent of totally ignoring it no matter what happens?

For quite some time, the various political parties and groupings in the Legislative Council have called on the Government to introduce reforms to the MPF system, such as abolishing the offsetting arrangement and the provision of low-fee index funds by the Hong Kong Monetary Authority (HKMA).

The Secretary has explained from time to time in the Legislative Council that plenty of low-fee ETFs which closely track the Hang Seng Index are already

available in the market for employees to choose from, so it is not necessary for the Government and the HKMA to take up a similar role.

However, let us look at the Tracker Fund of Hong Kong. Its fund expense ratio is 0.15%. Are there any other kinds of funds in the market that can compare favourably with the Tracker Fund in respect of fund expense ratio? If we browse the webpage of the MPFA, we will see that the fund expense ratio of similar index funds is 0.83%. Even after the deduction of rebates and other concessions, this ratio still does not compare with the ratio of the Tracker Fund.

President, let us not under-estimate the significance of this fee discrepancy of less than 1%, because MPF is very long-term investment, and due to the effect of compound interests, a tiny percentage can already affect the investment return seriously.

Therefore, in order to rebuild public confidence in the MPF system and ensure that the MPF can truly help the public in their retirement life, rather than just benefiting the fund managers, the Government is really duty-bound to play the role of a central trustee. Besides, the Government must also conduct a review and abolish the arrangement for offsetting long-service payments, so that the MPF can truly protect wage-earners in the lower classes. After all, the objective of the MPF is to provide retirement protection, whereas long-service payments involve an employer-employee relationship and is a legal requirement that has to do with labour relationship. Therefore, if we can give separate treatment to these two things in the review, we will be fairer to wage-earners.

In December last year, the MPFA put forward a number of reform proposals, including the introduction of a fee cap, and making it mandatory for trustees to provide low-fee index funds. I think as long as the HKMA or the Government is willing to establish a central trustee and provide low-fee funds like the Tracker Fund for wage-earners to choose, market forces and power will be able to compel funds to automatically lower their fees and improve their services.

The MPF contains elements of a public utility nature. As long as the Government is willing to shoulder its public responsibility of serving as a central trustee, it simply does not need to intervene in the market by adopting any administrative measures such as a fee cap, the effectiveness of which is questionable. In a free market, as long as choices are available, competition will

benefit consumers. I think that in his reply later, the Secretary will certainly say that the Tracker Fund does not operate that way, so it cannot be used for arranging a central trustee. But it does not matter what other similar ideas or methods are adopted, as long as a mechanism can be established to bring forth something that resembles a central trustee in the market, effective competition will certainly prevail in the entire market, thus truly benefiting wage-earners.

Lastly, I want to turn back to the original intent of the MPF to provide retirement protection to the public. As I can clearly remember, the Government has repeatedly refused to conduct any consultation or studies on universal retirement protection on the excuse that society has not yet reached a consensus. But I believe society has already reached a consensus on reforming the MPF system, abolishing the offsetting arrangement, and establishing a central trustee by the Government. Will the Government do so? In fact, it all depends on the Government's decision in the split of a second. Of course, the study on universal retirement protection is already underway. I hope that the Government can listen to the views of the public and conduct a major overhaul.

President, whether or not the Max RI for MPF contributions should be increased is no longer so important. The major problem is that the public have already lost their confidence in the MPF system. How we can inspire public confidence in the MPF system and convince the public that the MPF can help them improve their retirement life are issues that most warrant our consideration. I very much hope that the Government can expeditiously revamp the MPF system and even combine the MPF system with universal retirement protection to provide the public with genuine retirement protection. It is only in this way that the original intent of the MPF can be achieved, thus enabling us to enjoy a secured old age and full retirement protection.

Thank you, President. I so submit.

MR SIN CHUNG-KAI (in Cantonese): President, we support today's resolutions on the upward adjustment of the Minimum Relevant Income Level (Min RI) and the Maximum Relevant Income Level (Max RI) for Mandatory Provident Fund (MPF) contributions. Many Members have said that in respect of increasing the Min RI, there should not be too much resistance or opposition. Even if there is any, Members may only question why the increase is merely $600, why the

increase is so small, in other words. As for the increase of the Max RI from $25,000 to $30,000, various Members have also expressed their views. We all understand and know clearly that employers will voice their objection. But since even employees are against, we really must do some thinking.

This motion debate is not about a review of the MPF system. It only concerns the Min RI and the Max RI for MPF contributions. As a usual practice, the Government plans to table resolutions to the Legislative Council for the purpose once every four years. But as the two Notices will commence on 1 November 2013 and 1 June 2014 respectively, I have a question in mind. Will the Secretary tell me if this means that the Government will not table any more relevant resolutions to the Legislative Council or make any more adjustments in this term of the Legislative Council? Or, does it actually plan to make one more adjustment? Since the Government seems to have no plan to propose any further adjustment in the meantime, and the next adjustment scheduled four years later in 2016 or 2017 is quite a long time from now, does the Secretary think that there will be too little improvement for workers?

As the Secretary said in his speech earlier, the 90th percentile of monthly employment earnings to which reference is made for reviewing the Max RI already increased to $35,000 in the third quarter of 2012. This means that given the existing Max RI for MPF contributions, probably only 70% or 80% of employees can enjoy the protection of the MPF.

I only wish to reiterate two or three points. I hope that the Government can speed up its pace of implementing the series of reforms proposed by the Mandatory Provident Fund Schemes Authority (MPFA) in the report it published in December last year, especially the one on taking up the role of a central trustee. As Mr LEE Cheuk-yan has just mentioned, can the Hong Kong Monetary Authority (HKMA) play the role of a fund manager? Of course, we know that the HKMA is responsible for taking care of our Exchange Fund. According to our laws, can it perform this function? We have asked this question before but the Bureau has not given us any clear answer. As for the HKMA, it has only said that this is a matter of government policy. I hope that the Government can give us a more explicit answer.

If we can give the HKMA the green light …… The investment return of the HKMA from 2010 to 2012 and its estimated investment return for 2013 …… The rate in 2010 was some 6% and the rate now is 5%. We must note that this rate of 5% is actually the return after deducting trading costs. This rate of return, I think, will certainly please many wage-earners who make contributions as savings for their retirement life because it can at least offset the effect of inflation. The problem with the MPF now is that after deducting trading costs, administration fees or fund manager fees, the MPF may not be able to offset the effect of inflation, or the returns may fall behind inflation, or worse still, there may even be losses of principals. On this point, I think the establishment of a central trustee with the HKMA as the fund manager will enable wage-earners to have choices. I of course know that the report published in December last year has put forward the idea of "schemes for balances", but no concrete action has been taken so far. In the meantime, the contributions made by ordinary members of the public are still subjected to continuous erosion. I hope that the Bureau can clarify whether the HKMA can take up the role of a fund manager because what we are talking about involves several hundred billion dollars.

The HKMA likes to accept placement for investment. I must make a declaration here. I am a Board member of the West Kowloon Cultural District Authority and the West Kowloon Cultural District (WKCD) has placed tens of billion dollars with the HKMA because the WKCD does not have immediate cash flow needs. So, some of the funds that are expected to remain idle over longer periods are placed with the HKMA in order to yield a return of, hopefully, 5%. I think there are many large funds, and if the Government can provide similar schemes, many people will choose this option because the track records of the HKMA are good. This will benefit more people. When such products emerge in the market, they will pose threat and competition to existing market players, and other institutions or banks may thus lower their prices, or at least lower their fund costs and administration costs.

I hope that the Government can give us a more explicit answer, and tell us whether it will urge or help the MPFA to launch the work of engaging the HKMA as a fund operator.

With these remarks, I support the resolutions.

MR WONG KWOK-HING (in Cantonese): President, I wish to supplement what Mr TANG Ka-piu has said in his speech earlier.

President, these two Notices of the Government are just minor patch-ups, falling far short of the expectation of the more than 2 million wage-earners in Hong Kong. In spite of this, I can see that Mr Tommy CHEUNG has still put up objection to these amendments on behalf of the Liberal Party. This shows that the Government itself should really consider how to ensure improvement to the post-retirement livelihood protection for all wage-earners. Even though the Government has only put forward these minor patch-ups, the Liberal Party still voices objection as a representative of employers. What then is the use of the Government's assistance? These minor patch-ups are just like the mincing steps of an old woman in the days of foot-binding, showing absolutely no determination and desire for progress, and failing to take any further steps to completely resolve the existing structural problems and shortcomings of the Mandatory Provident Fund (MPF).

Mr TANG has cited a series of figures and the views and expectations of Chairman Anna WU. I am giving these supplementary remarks because I want to support Chairman Anna WU's efforts to make further and more radical improvements under the MPF system. But much to our regret, these Notices of the Government are just petty favours and minor patch-ups. The Government is just "reining in", showing no intention of allowing the MPF to see any further improvement and rectification. That is why we have already detected several major problems; the Government must respond to them, otherwise these minor patch-ups will really be of little help to wage-earners.

As Members have said in their speeches earlier on, one of the problems is that the offsetting arrangement should be abolished. Even if it cannot be abolished immediately, a timetable and plan should be drawn up, and studies should be conducted to see whether it is possible to adopt a phased and pro-rata approach to gradually reduce the losses suffered by employees as a result of offsetting. Otherwise, our savings will be washed down the drain by the offsetting arrangement for severance payments and long-service payments. If the Government does not make any efforts and adopt an active attitude, I do not think Chairman Anna WU can do anything despite all her good intentions. Therefore, I hope that the Secretary will give a response later. Is he trying to "rein in", forbidding any such moves? This is the first point.

Second, on the problem of expensive administration fees, as generally maintained by wage-earners, the current system is biased towards the interest of "fund guys", because while they can reap profits through investment, wage-earners actually cannot receive too many gains. Even though the Government wants to amend the relevant legislation to lower administration fees, the rate of reduction is still too low.

All this leads to the third problem. As rightly asked by Members who have spoken, is it possible to provide any alternative investment funds? Is it possible for the Government to act as the banker? Is it possible for the Hong Kong Monetary Authority (HKMA) to be the banker? If the Government is willing to do so, I think resolving the problem will no longer be such a complicated task. The Government simply does not need to amend the legislation because competition makes progress. If the Government can act as the banker, wage-earners will have an additional choice of investment. All we expect of investment funds can be summarized by these eight words: "simple, easy to understand, capital preservation and value-adding". We do not want to make things so complicated. Frankly speaking, not to mention ordinary wage-earners, even I myself cannot understand all those account reports that I have received, so it is very difficult for me to make investment choices based on such reports. We are not asking for anything special. "Simple, easy to understand, capital preservation and value-adding" will already suffice.

If the Government can provide an alternative choice, employees who wish to choose high-risk funds can still do so. If the Government can act as the banker, people will have an additional choice. I am not saying that we should ask the Government to do everything. I am only saying that the Government should provide an additional choice for people's selection. In that case, other trustees must naturally lower their management fees, think about ways to enhance their efficiency, upgrade their investment skills and increase their rate of return, so as to solicit more business. In this way, the market will then become a free market in the true sense of the term. But it is now difficult for wage-earners to make any choices, and not many choices are available to them. So, this is where the reason lies.

Therefore, this leads to the fourth problem: the investment education for employees is not very effective. From the figures cited by Members earlier on, we can see that only 3% of wage-earners, or some 70 000 of them in total, have

chosen to take part in the "semi-portability" arrangement for the MPF. This shows that the "semi-portability" arrangement has almost come to a halt. So, under such circumstances, I think the Mandatory Provident Fund Schemes Authority (MPFA) must carry out reforms and make improvements. But as I said at the outset, while Chairman Anna WU wishes to make improvements, it looks like she faces a lot of pressure from the government bureaucracy, and this makes any progress and improvement extremely difficult. Is this really the case in reality? I hope that the Secretary can give a response in this meeting of the Legislative Council today. I do not wish to see you being wronged. If you do not wish to be wronged, and if you wish to make improvement and have a proposal or timetable for reform, I hope that you can give a response today and seek support from Members.

Lastly, I would like to say that many wage-earners have told me that after saving money in their MPF accounts, they sometimes want to borrow from their own savings when they run into unexpected accidents and need money for emergency uses. They do not mean to withdraw the benefits but only want to borrow from them. However, the existing practices are very rigid and cannot entertain their request. Should this also be considered?

I have pointed out five problems. The Administration must never think that with these minor legislative amendments on adjusting the Min RI and the Max RI, it can already complete the task of reforming the MPF and making it very advanced. In fact, they are just like the mincing steps of an old woman in the days of foot-binding, never quite like the liberated strides of a woman after the abolition of foot-binding. Chairman WU now seems to be trying to take such strides. But I do not know whether she has been held back by the Government and therefore cannot stride forward. Therefore, I hope that the Administration can give a response.

Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, every injustice has its perpetrator and every debt has its debtor, right? I have long engaged in this field. Every injustice has its perpetrator and every debt has its debtor. Why was the Mandatory Provident Fund (MPF) implemented in Hong Kong in the very first place? There are of course historical reasons. Members are

clamouring that the MPF should be reformed. But I think the most important reform is to …… In fact, the MPF originated from the lack of retirement protection for workers in Hong Kong. The only exceptions are workers who have joined provident fund schemes, such as the schemes provided by employers to attract employees to work for them. The most obvious example is the pension for civil servants. Pension is now such a headache for the Government. It frequently talks about having to meet pension payment.

However, many low-pay workers do not enjoy any retirement protection. I heard Mr WONG Kwok-hing mention Chairman WU today, and I initially thought that he was talking about HO Chi-minh. But it turned out that he was just referring to a certain Chairman. This, therefore, reminds me of a popular trend nowadays. President, the trend now is to overthrow only corrupt officials but not the emperor. In this respect, I would say that Ronnie CHAN is an exemplar. He thinks that the "emperor" is not bad, and that only the Lord Privy Seal or the person in charge of the treasury is bad or even a great sinner. This saying is actually not proper because there is only one government. Business people all know that the CEO and CFO always listen only to their boss. How can we imagine any CEO and CFO giving orders to their boss and telling them what to do? But anyway, the trend of overthrowing only corrupt officials but not the emperor has already emerged.

Let me turn back to the MPF. Frankly speaking, a person who feels helpless will certainly voice grievances. No wonder labour activists are always grumbling about the miseries of employees making MPF contributions, saying that they can get nothing but losses. They therefore go on to ask for choices of investment portfolio, and complain about exorbitant service fees. All these are facts, but they are just a small part of the truth and the tip of the iceberg.

President, actually, I already put forward proposals on reforming the MPF system a long time ago, demanding the authorities to use part of the contributions for the purpose of implementing a universal retirement protection system. The Government, of course, has ignored me. In fact, what is the key? The MPF system actually resulted from the failure of the British-Hong Kong administration to win approval for the "pay as you go" system back then — Mr WONG Kwok-hing is leaving this Chamber because he knows that I am going to chide him. When negotiations failed to reach any agreement, problems resulted. CHEN Zuoer said that if the Government provided so much welfare, the "car

would crash and the passengers would die". In the end, the MPF system was formulated.

Back then, the Federation of Trade Unions (FTU) said that even though the MPF system was a "rotten orange", we should still eat it first. But we have been eating it for so many years. Today, we are still dwelling on certain trivialities and asking whether there can be any choices. In fact, no matter what choices are available, the result will just be the same, right? Do you think that we do not know how to make a choice? High risks will yield high returns, and low risks will yield low returns. Everybody is free to choose between the two, and this can never be wrong. But the most fundamental question is: why should employees be forced to make savings in the very first place? The reason for forcing employees to save money is simple. This is a calculated move of the Government. The Government knows that if many people retire all at the same time and fall into the "last safety net" of the Comprehensive Social Security Assistance (CSSA), the net would certainly break. But with their savings in the MPF, employees who retire at 65 will have money to support their living until they are 68 or 69, thus deferring the pressure on the CSSA resulting from employees' retirement. This is the purpose of forcing employees to save money, right? The purpose of the MPF is not to give people support until they die. So, instead of saying that the MPF is meant to give employees support until they die …… Please do not say so any more. The MPF aims only to prevent a scenario where all those people failing to support themselves fall into the Government's "net" all at the same time, so that the burden of the Government can be alleviated. This explains why the MPF involves such small amounts of savings. As for how much money employees can save, the Government simply does not bother at all.

So, President, the first problem is the offsetting arrangement. The employers can use ……

PRESIDENT (in Cantonese): Mr LEUNG, you are straying off a bit from the subject. Please speak on the two motions.

MR LEUNG KWOK-HUNG (in Cantonese): Isn't there a connection? I think these amendments should not be proposed. I think there should be drastic

reforms. I am explaining why I do not support the motions. Are you telling me that I cannot even do so?

PRESIDENT (in Cantonese): Please speak to the President.

MR LEUNG KWOK-HUNG (in Cantonese): President, why can't I explain why I do not support the motion? I must be accountable to my constituents, and I will vote against the motion later. This is reasonable.

Why do I refuse to support these trivial reforms? I am not saying that these reform proposals are unreasonable; I only think that they are inadequate. The first problem is the offsetting arrangement. Suppose employers are not permitted to use their MPF contributions for offsetting long-service payments and severance payments, employees will have all the money in their hands, and you actually do not need to teach them how to make investment, because employers' 5% contributions will still be there, and will not be misused by employers to offset payments that they should make. Secretary Prof K C CHAN, do you think I am right? A responsible government should be proactive, otherwise you would be condemned as the greatest sinner in history, right? This problem is now at the centre of public concern. The question now is: why has a transitional system managed to survive up to the present moment? What I mean is that the intention back then was just to coax employers to accept a system requiring them to make a 5% contribution. And, since employers considered this 5% contributions an additional expenditure, they were allowed to use the 5% they had contributed as "toilet paper" to wipe their mouths in case anything happened. This is exactly what is happening now.

President, 15 years have passed and you have been witnessing everything. Does situation in Hong Kong still call for the offsetting arrangement? Do employers in Hong Kong still need such protection? In my view, and as indisputably proven by all the statistics, those who rebound most quickly after all the financial crises, as evidenced by the Asian financial turmoil and the financial tsunami, are always employers who pay wages to hire workers, not workers who receive wages to support their living. This is indisputable.

Second, the Gini Coefficient has depicted an increasingly serious situation, rising from 0.4 at the time of reunification to some 0.54 15 years afterwards. Figures show that the poor are getting poorer while the rich are getting richer. Tell me why we should maintain a system that forever benefits the rich, whether in times of overall economic growth or even recession. How do the rich gain benefit in times of economic downturn? In the sense that in times of recession, they will not be the first ones to die because they can lay off workers and cut their wages, so as to reduce operating costs and sustain their business.

If we do not fix this system at root today, what is point of introducing all such trivial changes? This is just like telling a patient complaining about terrible pains to just put on a band aid. Actually, his pains may be a symptom of cancer and yet, you are not treating his cancer. If you are a doctor, you are doing harm to the patient; if you are the ruler of a state, you are doing harm to the nation. It is just this simple. This is the first point that I wish to make. I hope that all members of the public who are watching the live broadcast of this debate will not think that LEUNG Kwok-hung is once again opposing the reform proposed by other people with all his high-flown words. The point is that the reform is meaningless. Why is the reform meaningless?

Mr WONG Kwok-hing has left this Chamber but he did tell us the answer to the riddle. The answer is that MPF operators will definitely go for economy of scale, meaning large-scale operation. Having made investments with MPF contributions, they will of course charge commissions in case they can make gains, but even if they incur losses, they will still charge commissions all the same. This is the second shortcoming. In other words, their job is to gamble on your behalf. If reform is not carried out in these aspects, how can the system be successful? So, on this point, all I can say is that in proposing these trivial changes, the Government is only like drinking poison to quench its thirst. Am I right? The Government is just trying to stop water from boiling by scooping it up and pouring it back. The water in the pot is boiling but the President is only telling me to wave a hand fan over it, saying, 'Long Hair', the water is boiling. Wave over it, or else you will be scalded." President, you ought to tell me to take away the charcoal for boiling the water. This is the only way to cool down the water. What this Council is discussing day and night, night and day, day and night and night and day is these trivialities. The reform that I propose is very important.

Besides, the Government must ensure that MPF contributions are sufficient to enable retirees to make ends meet. In fact, there is an objective gauging standard. For example, the Government must ensure that MPF contributions can support the living of employees for seven years, five years or 10 years after their retirement. President, let me use the repayment of home mortgage loan as an example. There is a mortgage-to-income ratio. If you, President, wishes to take out a mortgage loan, the bank staff will certainly ask you, "Mr TSANG, how much is your monthly salary?" You say that you are the President of the Legislative Council. The bank staff will ask you again how much your monthly salary is. You reply that it is around some $100,000 to $200,000. Now, it is at this point that he can conclude that you can afford the repayment. Banks simply will not let you take out a mortgage loan that is beyond your repayment ability. The case is just the same from a business point of view. If we assume that the MPF system or the retirement system should be able to support the living of an elderly person until he is 65 or 75 — as an old saying goes, a man seldom lives to be 70 years of age — we can work out how much money is needed and we can design a central provident fund system operated by the Government, disregarding whether contributions are to be made by three sides, two sides or just one side.

However, we are not taking this step. This is why I said that at least $3,000 and 2.5% of one's salary should be deducted as MPF contributions. Of course, many people will say that this is unacceptable to people who have been making contributions. People who hold this view basically do not understand the operation of society. First, will there be any more poor relatives after contributions are made? In fact, this is helpful to the poor relatives, and people who are very rich do not need to make contributions anyway. So, the proposal that I have put forward is most reasonable, or comparatively reasonable if not most reasonable, because only a universal retirement protection system is most reasonable. Under the existing system, contributions cannot be withdrawn. There is another problem, President, and I wonder if the Secretary has taken it into consideration. If an employee retires at 60 but he can withdraw the money only at 65, what is he going to do? Accrued benefits in MPF accounts are considered assets. Such benefits cannot be withdrawn but are regarded as assets. This is really a very big problem, isn't it? You have $400,000 which you cannot withdraw, but at the same time, you cannot apply for CSSA. Also, the Old Age Living Allowance is marked by this problem. So, the overall governance of the Government is entirely out of balance. What are we going to do?

President, I, therefore, cannot vote in support of the reform proposed by this Secretary, not because the reform proposed by him is incorrect but because the reform is so trivial that it is tantamount to nothing at all, or I would say that it is just better than nothing — idioms must not be used frivolously — which means that it is a little bit better than not having anything. Man, how can I support you? Even if I support you, we will still end up having nothing. Frankly speaking, Antony LEUNG is of course a money-grubbing kind of person and he is concerned about input and result, but Secretary, have you ever calculated the outcome or the result? I mean, after these reforms are implemented, how many people will be benefited? How much money can workers thus save up per year? If no result can be achieved, do you have in mind any other better policies that can produce your desired result? None at all. Are you going to pass the problem to the market? Are you going to tell the public to choose by themselves? But all the choices available to them are just "defective light bulbs". Are you telling the people to choose by themselves and not to blame you? Is this the case?

How can such a topic be put before the Legislative Council for discussion? This should be a topic discussed behind closed doors by this or that recreation club. But President, this is a place for handling public policies, and a public policy can affect several hundred thousand or more elderly people in poverty and yet, we are still "sap ha sap ha" (拾下拾下)[1] here today. "Sap ha sap ha" is not a foul expression. It only means bending down to pick things up. We are still picking up the trivialities and other people's ……We are still "sap ha sap ha".

(A Member interrupted)

MR LEUNG KWOK-HUNG (in Cantonese): That character is pronounced "十" (sap6). Do you understand? It is "拾下拾下".

We must hold our head high in life. Why should we "sap ha sap ha"? We must get back what belong to us. When other people "dropped their spittle"

---

[1] "拾下拾下" literally means picking things up here and there, and it is also a colloquial expression to mean muddle-headed.

and ask us to "sap ha sap ha", how can this Council avoid being "sap ha sap ha"? President, I will not do so. You can go on "sap ha sap ha". That is it, goodbye.

MISS CHAN YUEN-HAN (in Cantonese): President, this Chamber can accommodate different views. I am kind of interested by how "Long Hair" picked on Mr WONG Kwok-hing throughout his speech. But I still find this tolerable. He has left the Chamber now? It does not matter. I am not going to argue with him anyway, because this Chamber can accommodate different views. Just yesterday, for example, the President invited ZHANG Xiaoming over to have lunch with Members. I think this was a very good arrangement. Although there were sharply divergent views over the dining table, but there was also humour and delightful laughter. It was very nice.

I share the views of "Long Hair" on the resolution proposed by the Government. Whenever any such minor amendment is proposed, I would invariably advise that we should not raise any objection. I also think so now because the resolution is already an improvement when compared with what Secretary Anthony CHEUNG has done. President, why do I say so? After the introduction of the minimum wage, Secretary Anthony CHEUNG has not adjusted the income eligibility criteria for two-person households intending to apply for public rental housing (PRH). As a result, some people become ineligible because the receipt of the minimum wage has made their incomes exceed the income ceiling for a two-person household. So, that day, I voiced my criticism and questioned Secretary Anthony CHEUNG why he had refused to make any adjustment, when corresponding adjustment was already made in the case of the Mandatory Provident Fund (MPF).

Also, I often mock some practices of the Government. I often explain that the lack of internal co-ordination will hinder the implementation of policies that cut horizontally across different Policy Bureaux and departments. This is really a problem that has given Legislative Council Members various opportunities to make criticisms from different perspectives. So, I welcome today's resolution and consider this an improvement compared with the policies of Secretary Anthony CHEUNG in charge of the Transport and Housing Bureau. But this does not mean that I will not rise to speak, because I wish to point out one thing I dislike.

When I asked Secretary Prof K C CHAN whether amendment should be made to the offsetting arrangement, he replied, "Miss CHAN, this is not our

responsibility. This should be dealt with by Secretary for Labour and Welfare Matthew CHEUNG." But when I asked Secretary Matthew CHEUNG, he said that this had nothing to do with him and should fall within Secretary K C CHAN's portfolio. So, I must find out the truth here because the existing offsetting arrangement is a big problem. Frankly speaking, this problem will worsen continuously as the MPF system increases in age. So, why does the Government still refuse to deal with the problem? Why does it simply toss the ball between the two Secretaries instead? Eventually, the ball is passed to the Chairman of the Mandatory Provident Fund Schemes Authority (MPFA), Ms Anna WU, who happens to share our views.

So, my speech is very brief. I hope that the Secretary will, in his response later on, tell us clearly which Policy Bureau should deal with the offsetting arrangement. We want to solve the problem and do not want to see the ball being passed from one Policy Bureau to another, from one Bureau Director to one Secretary of Department, and so on. In fact, such problems are often passed round and round endlessly. I support today's resolution because it is an improvement when compared with how the Transport and Housing Bureau handles the PRH income ceiling for a two-person household. However, since the labour sector has pointed out that the offsetting arrangement is both unfair and unreasonable, and even MPFA officials also agree with us, I must ask why no Bureau Director is willing to deal with it. This is the reason why I have to rise to speak. I also wish to ask this question through the President, in the hope that the Secretary can answer our question and tell us who should be responsible for this matter in his reply later. Should it be handled by CY personally? We are really puzzled.

With these remarks, President, I support the resolution.

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

MR KENNETH LEUNG (in Cantonese): President, I think if I could travel back to 15 years ago in a time machine, I would never agree to the design of the legislation on the Mandatory Provident Fund (MPF) system, because it is modelled on the very complex Australian system. Over the past 10 years or so, the middle class, wage-earners and professionals have regarded the MPF system as something dispensable. As at today, the MPF system has operated for 13 years since it was launched in October 2000. The complete abolition of such a

system may not be a good idea. We all have mixed feelings about it and query why we should make MPF contributions for no convincing reasons at all. After making contributions, we all criticize brokers, asset managers, trustees and administration personnel for charging the fees they charge. When all these fees are added up, they actually make our MPF fees the most expensive in the world. The rate is 1.75%.

Very often, if a wage-earner retires at a time when the economic bubble bursts and the stock market collapses, he will incur huge losses. Under such circumstances, even the MPF cannot help the grassroots. So, how are we going to reform this savings scheme, which can be described as neither fish nor fowl? Do we really need it anyway?

Of course, after making contributions for 13 years, we have amassed quite a lot of assets, so in the short run, it will be impossible for us to abolish the MPF system all of a sudden or even transfer all the assets to a universal retirement protection scheme. In fact, I have proposed some radical reforms in my articles published in some newspapers and magazines. I hope that the Government will carefully consider adopting my proposals in the interim to any territory-wide consensus on universal retirement protection.

First of all, I would like to discuss the offsetting arrangement mentioned by Miss CHAN Yuen-han. Having read some relevant literature, I notice that the offsetting arrangement was actually rolled out as some kind of "compromise" when the legislation on the MPF system was about to be enacted in 1998 or 1999. Long service payment and severance payment as a form of employee protection and the MPF legislation as a form of retirement arrangements should be two completely separate matters. Setting up an offsetting arrangement between the two must of course be a political decision meant to win the business and commercial sector's support for the passage of the legislation. However, the offsetting arrangement between the two is actually unjust. Some employees who are otherwise entitled to severance payments and long-service payments will lose a lot of money due to their employers' contributions to the MPF for them.

We should strive for the "full portability" of the MPF. I also understand that this is one direction of drastic reform that the Government must follow. As long as the offsetting mechanism exists, the formulation of administrative arrangements for "full portability" will remain very complicated. We can see that the "semi-portability" of the MPF has been put in place by the Government for quite some time. But what is the result? How many employees under the

MPF system can see clearly the amounts of management fees they can save by choosing from different MPF schemes? Do they know whether they should switch to other MPF schemes? In fact, we do not have sufficient information to help us make the decision. People in the professional sector will not do so. Ordinary wage-earners will not have time to do so either. In fact, how many people have been able to benefit from the Government's introduction of "semi-portability" for the MPF? Almost none. So, I think the offsetting arrangement should be abolished. This is the first point.

The second important point is about the 1.75% management fee. This of course includes payment to fund managers, but most of the money should be administration fees because each trustee now uses a different platform, and different administrative procedures are involved if we want to switch to other MPF schemes.

Many Members of this Council have proposed that we should try to let the Hong Kong Monetary Authority (HKMA) manage MPF contributions in the form of a tracker fund or provident fund, so that the returns for some of our MPF funds can fully reflect the rates of investment return of our reserves. In fact, this is not the most important thing. I can see from the cost structure that administration costs and compliance costs actually account for the major part of all costs. If we want to slash administration costs, the only way out — many people in the trust industry may hate what I say — objectively, the only way out is to set up a central trustee. But this central trustee is not going to be the HKMA. In fact, it is necessary to set up a statutory body for the purpose, meaning that a public body is to serve as the central trustee. How should we define a low level of management fees? The rate of 1.75% is certainly the highest in the world. I think an average rate of below 1%, or even around 0.75% will be acceptable.

There are some other options which can be considered. For instance, I think in respect of constituent funds, legislation can be enacted to specify that there must be some low-cost portfolios in each constituent fund, such as tracker funds or bond funds, which do not need to be actively managed. I hope that the Government can enact legislation to make it mandatory for each constituent fund to contain low-cost portfolios for people to choose from.

The fourth point is certainly about enhancing the transparency of information to make it possible for investors or employees to make choices. When we have a choice, we are the boss. In the annual account statements of MPF funds, only the percentages of management fees and administration fees

pertaining to the funds in which we invest are shown. But in fact, we would like to know how much money, in dollar terms, they have taken from me after I have contributed for so many years. In other words, how much money has been spent as administration fees and how much money has been paid to fund managers? All such information is what we as citizens want to know.

I hope that the Financial Services and the Treasury Bureau will carefully consider my proposals. President, today I will support the Government's amendment to the legislation. Thank you.

MR JAMES TIEN (in Cantonese): President, when I was appointed to the then Legislative Council in 1988, the Government was rolling out various labour relations policies to protecting workers' rights and interests in respect of long-service payments, severance payments and so on. I approve of such policies. However, when the Government began to consider the implementation of the Mandatory Provident Fund (MPF) system in 1998 or 1999, many people from the business sector all said that there were already long-service payments and severance payments, plus many different kinds of occupational retirement schemes (ORSO schemes), under which employers' contributions in many cases were even higher than the 5% under the provident fund system. In the case of many companies, while the employees contributed 5%, the employer contributed 10%. Certainly, such ORSO schemes were found only in big companies, and there were no such schemes in small companies. So, the long-service payment introduced by the Government subsequently is similar to a MPF scheme. Severance payment is a different thing; it is a sum of money paid by the employer to an employee at the time of redundancy. The two should not be regarded as one.

From the perspective of small and medium enterprises and the business sector, retirement is retirement, and there should not be any "double insurance" as such. The business sector instead thinks that "double insurance" is actually double benefit. They simply think that everything is just for the provision of retirement protection. So, they query why both sides must make contributions according to a fixed percentage. So, the business sector also faces difficulties. In fact, owing to the high property prices in Hong Kong, housing is the biggest problem faced by all employees after retirement. If a person does not have any savings and must rely on his long-service payment or the MPF after retirement, then I think even though both sides make contributions, there will not be enough money.

When the MPF system was set up back then, it was not intended to serve as the sole means of enabling people to enjoy a good life after their retirement. The original intent of the MPF system is just to provide a kind of supplement for improving people's livelihood. The idea is that one third of a person's retirement protection should come from his savings, one third should come from his children's support if they could do so financially — of course, this concept is now very difficult to realize because the younger generation may not even be able to take care of themselves and are simply incapable of caring for their parents — and the remaining one third should come from the MPF. So, the saying that accrued MPF benefits should enable retirees to live comfortably is simply not the original intent of the MPF system.

In our opinion, a new problem has arisen. In the past decade, the performance of MPF schemes was far worse than expected. The rates of return of ORSO schemes implemented by all companies were generally higher than MPF schemes. MPF schemes are just like clumsy elephants, and they adopt the most conservative investment strategies and even capital preservation. Hence, when interest rates are low or when the investment environment turns a bit risky, their rates of return will often be very poor. Therefore, it is not easy for the authorities to make any improvements unless the public or employees who make contributions all agree to give up the strategy of capital preservation and switch to funds that can provide more reasonable rates of return. However, they must understand that the risks will be higher. This is also the case with the ORSO schemes of many private companies, that is, a higher rate of return always comes with a higher risk and *vice versa*. I think the public should decide on their own in what way their money should be spent.

The Liberal Party agrees that employees should have the right to make their own decisions, that is, the right to switch their contributions to other trustees. We agree to the idea of "portable" schemes. But we must point out that in case an employee really switches to high-risk investment products or high-risk investment banks, then it will be most unreasonable if the profits gained are deposited into his account while his employer is made to pay compensation when losses are incurred. If so, employers will certainly require employees to choose the most prudent investment options. In case an employee chooses high-risk investments, why should his employer pay for the losses while the employee is allowed to pocket all the gains? If so, it will be very difficult for employers to foresee their account status. Hence, employers will naturally choose banks

which are prudent and sound, especially because banks can provide a lot of products for their employees to choose from.

Therefore, the Government must tackle this problem. If employees are allowed to switch, to make their own decisions and to choose high-risk products with high returns based on their own circumstances, then they themselves must be responsible for all gains or losses. Employers should not be required to bear the losses resulting from employees' unsuccessful investments.

In a nutshell, the Liberal Party supports the offsetting arrangement between long-service payments and the MPF. We consider the current practice reasonable. Thank you, President.

PRESIDENT (in Cantonese): Mrs Regina IP, please.

MRS REGINA IP (in Cantonese): President, I am sorry because I feel too hungry and press the wrong button.

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

MR WONG YUK-MAN (in Cantonese): President, I really do not know whether I should support or oppose the two proposed resolutions under the Mandatory Provident Fund Schemes Ordinance today. We are usually very unequivocal on the stances we take. We will always say either yes or no very clearly. But for these two resolutions, I do not know whether we should support or oppose them. So, it is a headache for me. "Tai-fai", please tell me what to do. Our indecision, however, can precisely highlight the problem. These two resolutions can be described as "chicken ribs" ― tasteless to chew, but not bad enough to discard. It is presented by the "Secretary for Chicken Ribs" …… No, these resolutions are the "chicken ribs" presented by the Secretary for our enjoyment.

Since the statutory minimum wage has been increased to $30 per hour since 1 May 2013, the Minimum Relevant Income Level for Mandatory Provident Fund (MPF) contributions must be correspondingly adjusted, from $6,500 to $7,100. That is what the resolution is all about. This is the first adjustment, and there is another adjustment. So, we have no alternative but to use this

opportunity somewhat inappropriately for voicing our related views. The original policy intent of both the MPF and the minimum wage is to protect grass-roots workers. But the ways in which these two policies are being implemented are poles apart from what we have been fighting for. Specifically, I would say that they fail to fulfil the demands we have presented. By "we", I mean all those Members in this legislature who have fought for the interests of grass-roots workers for long years and also all the wage-earners outside of this very Chamber. Those wealthy Members in this Council certainly hold different views on this issue. This is the precise reason for all the disputes that have emerged. How can we keep silent?

The minimum wage we demanded was $33 per hour. But they turned it into $28 and even set up a mechanism of "biennial reviews", in total defiance of our demand for "annual reviews". During the subsequent biennial review, they adjusted the minimum wage per hour upward by merely $2, but they have since been shouting here and there that the rate of increase is as high as 7%. They have been playing a game of statistics because we should be talking about two years here. Since we are talking about two years, the rate should be divided by two. What then should be the real rate of increase? Basically, the rate of increase cannot catch up with inflation, and this is a fact. However, they claim that there is an increase of more than 7% after two years, and that an increase of $2 is already very, very substantial. Our proposal of "annual reviews" was negatived in this Council under the system of separate voting. We supported the Minimum Wage Bill back then. And, frankly, an hourly wage of $33 is in no way an unreasonable demand, right?

Yesterday, a student of mine who returned from the United Kingdom visited me with his 14-year-old daughter. We talked about many things, such as education and the minimum wage. In the United Kingdom, the minimum wage is £6.1. I do not know the existing exchange rate. I really want to ask those wealthy Members. "Tai-fai", how much is £6.1 in Hong Kong dollars? In Hong Kong, when employers are demanded to offer $30 an hour, they all react as though we wanted to kill all the people in their families. However, is an hourly wage of $33 really such an unreasonable demand? Is this related to the resolution? Certainly, it is.

We demand the total abolition of the MPF system and its replacement by universal retirement protection. But we have not succeeded despite all our efforts. Right on the very first day when I became a Legislative Council Member, I started to fight for this, and before that, I advocated this on the radio.

But all have been of no avail. In this Council, six Members belong to the Hong Kong Federation of Trade Unions and one Member belongs to the Federation of Hong Kong and Kowloon Labour Unions, making a total of seven Members. There are also four Members from the Labour Party. So, the number becomes 11. There is one Member from the Neighbourhood and Worker's Service Centre, thus boosting the number to 12. Also, there are four Members who are called progressive democrats. So, there are totally 16 labour sector Members. But we are still the minority in this Council and cannot possibly do anything. However, we must still continue to voice our concerns for wage-earners and fight for a better retirement life for the elderly. We are duty bound to do so.

However, in this Council, there are still a number of political parties with strong popular support, such as Mr IP Kwok-him from the Democratic Alliance for the Betterment and Progress of Hong Kong and the "pigeon party". They are all well-established and with huge manpower. At one time or another, they too clamoured for the grassroots. Why don't they join hands to tear down the MPF system? What is the point of making minor adjustments here? What is the use of repeating the same old arguments? This cannot solve the problem at all.

Just now, one certain Bureau Director told me that he must also make contributions to MPF, and remarked that the money in his account had been "shrinking". In reply, I said, "You earn $280,000 a month and the accrued MPF benefits you withdraw in the future may just be equal to your current monthly salary, so even though the money in your MPF account 'shrinks', you certainly won't find it such a serious matter." This certainly does not matter so much to him, but he still complains about the "shrinkage" of the money in his MPF account. I am not going to reveal this Bureau Director's name. But this Bureau Director did tell me so in the Ante-Chamber just now. Like low-income people, he also sees the "shrinkage" of his MPF assets. However, the Government has never been able to solve the problem. The original intent of the authorities is to protect grass-roots workers, so that they can enjoy some basic protection in their old age. But in reality, they cannot enjoy any protection whatsoever. We have discussed all the related problems for numerous times in this Council. And, we are already, in a way, tired of discussing them any further. However, the Government's response has been very simple. It has merely made some minor adjustments to the MPF system.

Speaking of "689", I must say he is really a person "invincible in words but powerless in actions". He is not only powerless in actions; he is also downright haphazard, making empty promises, babbling nonsense and only speaking nice

words. He said that with pragmatism and prudence, he would in "an open, pragmatic and prudent manner", "consider all views objectively and work towards a consensus in the community on how we should take forward retirement protection in Hong Kong". He said that "the MPF system has a history of 12 years and is in need of continual refinement. Many people have grave concerns over some arrangements of the MPF system, in particular its fee levels. We will work with the Mandatory Provident Fund Schemes Authority so that a multi-pronged approach can be adopted to bring down fees and charges." This is simply an attempt to blur his responsibility for universal retirement protection.

The words I have just quoted are from the Policy Address. These words are all empty talks, right? The most concrete words are "we will work with the Mandatory Provident Fund Schemes Authority so that a multi-pronged approach can be adopted to bring down fees and charges." Secretary, please elaborate this sentence later. The Policy Address is an outline and you are the Secretary. Therefore, could you please explain what "689" means by a "multi-pronged approach"? And, are there any plans to "bring down fees and charges"? Would you please make a response later?

The disparity in wealth in Hong Kong is well past the point of any tolerance. If the minimum wage and even the MPF can be improved, if universal retirement protection is introduced, if the minimum wage can be reviewed annually and a slight upward adjustment can continue to be made next time to provide grass-roots workers with better income protection, the wealth gap problem may well see some slight alleviation. These are the things you can do. As for the macro environment, you can only do observation, and objective economic conditions are probably beyond your control. You see, you people were already scared to death when this old man from the Federal Reserve Board made a single remark, and you even moved a motion debate on this. But well, it looks like the old man has changed his mind again. So, you are actually under the control of others.

However, there are still things you are capable of doing. For example, as long as you can introduce certain reforms to the existing system and policies, some problems can then be solved. We are also members of the Subcommittee on Poverty, but we find the whole thing rather meaningless, because the same old views are repeated in every meeting. And, every time, the Bureau Director concerned will invariably answer questions with reference to existing polices. How can this be regarded as poverty alleviation work? After the Education Bureau has outlined its work, the worst Secretary ever, Matthew CHEUNG, will come along to read his prepared script and repeat the same litany of measures.

Every time when I see him speak like this, I really want to step forward and slap him in his face. But, of course, everything has remained unchanged after all their words.

In June last year, "689" announced the re-establishment of the Commission on Poverty. He even chaired the Preparatory Task Force and invited the Chairman of the Executive Committee on the Community Care Fund, Dr LAW Chi-kwong of the Democratic Party, Christine FANG and HO Hei-wah of the Hong Kong Council of Social Service (HKCSS) to the Commission. HO Hei-wah used to be a "LEUNG fan". However, he has now fallen out with LEUNG Chun-ying. He now regrets having supported him without any reservation. He is such a poor and unlucky man. He was a friend of mine, but because he was a "LEUNG fan", I have not seen him over the past year. Fortunately, he is a man of honesty after all, and he now regrets having been a "LEUNG fan". He is always like this. He always likes to help others in doing good things. Seeing that LEUNG did not look like such a bad guy after all, and since LEUNG made all sorts of lofty promises on helping the grassroots and even "issued many cheques", he believed that LEUNG would at least honour one of these undertakings. Little did he realize that all these cheques would bounce ……

PRESIDENT (in Cantonese): Mr WONG, please speak on the two motions relating to the MPF.

MR WONG YUK-MAN (in Cantonese): President, because none of these cheques are honoured, they simply continue to focus on the MPF ……

PRESIDENT (in Cantonese): Please speak on the relevant motion.

MR WONG YUK-MAN (in Cantonese): …… and continue to make minor adjustments. During the discussion on poverty back then, the HKCSS submitted a report containing many recommendations. The authorities invited the HKCSS to give advice to the Commission on Poverty. However, when dealing with recommendations such as "annual reviews" of the minimum wage, conducting studies on universal retirement protection and implementing the Old Age Living Allowance (OALA), the Government has been selective in their adoption. Universal Retirement Protection is not introduced. A means-test is required for

the OALA. Moreover, the OALA was passed in this Council in a sneaky and deceitful manner. We were fooled and our filibuster attempt failed. The Government has concentrated only on all these furtive acts and totally ignored its proper business.

President, I will not digress from the subject. The minimum wage was first set at $28 per hour, and it was increased to $30 two years later. But they already behave like giving away alms to beggars. Today's motion is related to the minimum wage, so you must not say that I have digressed from the subject, okay? Currently, the rents per square foot paid by tenants of sub-divided units are fast catching up with those for luxurious residential units. What can grass-roots wage-earners do with this $2 increase? Can they thus become rich? Mr Tommy CHEUNG is not present. If he is, he will certainly stand up and scold me, saying that the $2 increase has rendered restaurants unable to hire any staff. This is really a strange argument. At present, how can anyone hire a waiter without paying more than $10,000 per month? But he tells a different story. He says that since security guards or cleaners can also each earn $7,000 to $8,000 per month due to the new minimum wage, people simply do not want to work as waiters. How can he say anything like this?

In the early stage of implementing a minimum wage, such a strange phenomenon is bound to occur. But is this $2 increase enough for buying a pair of socks? Of course, it is not. The case of the MPF is just the same. People are forced to hand over their hard-earned income to fund companies for investment. All people thus receive only 80% or 90% of their wages. Because of MPF contributions, people can only receive 90% of their wages. But by the time they withdraw their accrued benefits, they may find that the amounts are just 70% of their total contributions. Because of MPF contributions, they can now receive only 90% of their wages. But when they reach old age, when they cannot move around, and when they can finally withdraw their accrued benefits, they may find that only 50% or 60% of their total contributions are left. The situation is like this.

I do not know what kind of changes they are talking about. The problem now is that we do not have the right to choose fund companies. Many people who have emigrated simply do not know how to withdraw their accrued benefits upon retirement. Up to now, we cannot see any signs of improvement in respect of management fees. However, "689" said that he is taking a multi-pronged approach. I wonder how many "prongs" there are in this regard. So I think the Secretary must really offer an explanation.

Enterprises in general must pay interests in order to secure loans. Even if they can get very low interest rates, they must still bear interest payments. However, MPF service providers all have stable sources of funds without having to pay any interests, and they can at the same time charge exorbitant management fees. This is a business with guaranteed profits but no loss. On the other hand, however, people who make contributions are sure to lose. How can we allow anything like this to happen? And, they even refuse to make any rectification.

As at September 2012, all the assets in the MPF system stood at more than $410 billion. Some economists have calculated that MPF trustees receive a total of $7 billion in administration fees every year. The major five trustees together take up 73.6% of the MPF market share. The statistics for August show that the five trustees are able to gain $4.89 billion per year in management fees, assuming a fund expense ratio of 1.7%. There are still many similar statistics, but my speaking time has almost been used up. I have not yet finished my speech, but I am not sure whether I should support this resolution. I have not yet made up my mind. Thank you, President.

MR CHAN KIN-POR (in Cantonese): President, I did not intend to speak at first because this is just a very simple motion regarding the minimum level of relevant income for Mandatory Provident Fund (MPF) contributions. Unfortunately, as is usual in this Chamber, this very simple matter has been made very complicated. Members have been delivering irrelevant speeches, and they simply make use of this motion topic to voice their other views. Therefore, I must also speak, so as to strike a balance and say a few words of justice to enable the public to understand more.

I can understand the reasoning behind the speeches of those Members representing the grassroots and other Members. However, I am very disappointed with the speeches of Members from the business sector. I am still puzzled now, and I do not understand the motive of their speeches. I even have to say that the message they have imparted is erroneous in my eyes. Hence, I must give a response. First, it is said that of all the retirement protection systems in the world, the one in Hong Kong has the shortest history and is marked by the lowest rate of contributions. The existing retirement protection systems in other parts of the world, such as the United States, Europe, and so on, have been in place for 20 to 30 years, and these systems all underwent a period of growth before they can become fully-developed as they are. According to a consultant who has conducted a systematic study, a comparison of the Hong Kong system with other systems of roughly the same age shows that the fees

charged in Hong Kong are not expensive at all, as the fund expense ratio (FER) in all cases is about 1.6% or 1.7%. Some people always say that the fees charged in Hong Kong are the highest. But they do not explain the reason for this. The fact is that the Hong Kong MPF system is the youngest and its rate of contributions is the lowest. It is only natural that the FER is high. However, when the denominator increases and management fees do not rise substantially, the FER could drop to below 1%. The consultant has also pointed out that if a series of measures are adopted, the FER could be lower than 1%. I hope that Members would not confuse these concepts and confound right and wrong. This is indeed most saddening.

Second, many people have recently talked about MPF discounts. Some people think that the Mandatory Provident Fund Schemes Authority should disclose the actual level of discounts. As in the case of the gross floor area and the saleable area of a residential unit, stating the saleable area can of course serve greater practical purposes. But surprisingly, some Members from the business sector oppose the disclosure of the actual figure. I really do not know why. My sector estimates that there is about a 0.2% to 0.3% discount. This means that after deducting this percentage from 1.7%, the FER actually borne by the public is about 1.4% to 1.5%. There is already a very big difference. However, I am really puzzled as to why anyone should oppose the disclosure of these facts.

Third, some people also argue that everything will be fine once a central trustee is established. However, if we look at the cost structure carefully, we will see that there are also fund fees and administration fees, and trustee fees are not the most expensive. Why are administration fees so high? Because huge manpower is required in the absence of automation, and there are numerous demands to meet. Excessive demands are not of any good to the public, and service providers also suffer as a result. Why must all this happen? We are in fact rather helpless as this is the Government's approach, and it has never reviewed the situation. The biggest problem with this Council is that whenever the real difficulties cannot be reasoned out, the issues concerned will be blindly escalated to the levels of cardinal principles of what is right and what is wrong. What is the result of this? The result is that we fail to tackle the problem at root and to focus on the real problem. The biggest problem with the MPF is about administration fees because the administrative work involved is just too complicated, to the extent that whoever does the job is bound to end up in a mess. If the Government is to take over, efficiency will be even lower and the costs higher, and the idea will not be viable unless with the subsidy of public money. So, we must understand that the problem actually lies with administration fees

and administrative procedures, and so on. Some consultants have been commissioned to conduct various studies. But since these highly expensive consultancy reports are simply ignored by all after completion, what is the point of compiling them at all? If Members have time, please carefully read the consultancy reports which have cost us so much money. Administration fees are so high because the procedures are still extremely labour-intensive, and we are even still writing cheques instead of using automatic transfers. We must focus specifically on these problems. Even if we continue to argue bitterly here, the fees will still remain very high, and whoever is to do the job will not be able to change the situation.

In addition, the performance of the financial market has been really disappointing over the past decade or so. As we learnt during our school days, or as our own research can show, the usual average return rate of the stock market over a 10-year period should be close to 15%. But in recent years, the stock market cycles have turned increasingly short. A cycle may last two or three years only. An average return rate of 6% to 7% for a 10-year period is already extremely good these days. In fact, the whole economic environment has already changed, and I myself am very frustrated, not knowing how to deal with this problem. It is rather difficult for us to deal with external factors, but I think we should fulfil our duties first. What does this mean? We must automate and rationalize the MPF system. Automation can enable us to reduce actual costs greatly, and rationalization can help us cut many work procedures, in which case we will not need to hire so much manpower to recover default contributions from employers. Such work is very time-consuming. There are also all those "preserved accounts", accounts that have remained inactive after opening. They number more than 4 million now. However, it is still necessary to provide regular service and information to these accounts. This again involves money. All this has a bearing on our costs. Once we can settle all these problems, then with discounts, the FER will already go down to nearly 1%. At present, even the fees rates for some very large schemes in the United States are more than 1%. So, I think we must be fair and face the real situation, so as to solve this problem.

In addition, apart from high administration fees, MPF funds also involve fees for fund managers. But the levels of such fees vary, depending on the funds chosen. If passively managed funds are chosen, the fees will be much lower. Amongst the existing 400-odd types of funds in Hong Kong, the FER of many of them is below 1%. There are numerous funds charging a fee as low as 0.3% to 0.5%. Yet, why do so few people choose these funds? In my opinion, more efforts should be made in publicity, education, and so on. But I think the public are very smart. They know that the fees charged by various funds do not differ

significantly. Are there any big differences among 0.7%, 1% or 1.7%? People place more emphasis on fund performance, and think that this is of utmost importance. We must understand that the average rate of returns over the past decade is still much higher than the inflation rates after deducting the factor of administration fees. Therefore, the rate of return on investment is not as poor as Members have said. I beg to differ from their view.

I initially did not intend to speak. But I would like to make some fair comments after hearing too many unjust remarks. So, my speech may be a bit shoddy and disorganized. I only hope Members will understand that the MPF system has its problems, but there is more than $400 billion in the MPF system …… President, may I ask Members to keep quiet so that I can concentrate on my speech?

PRESIDENT (in Cantonese): Mr SIN Chung-kai, please do not talk with other Members.

MR CHAN KIN-POR (in Cantonese): I hope we can all identify the problems with the MPF. The offsetting arrangement is certainly a major problem. On the one hand, employees do not think that this is a desirable arrangement because offsetting will reduce their retirement benefits. But on the other hand, we should not forget that employers finally agreed to implement the MPF years ago only because of this offsetting arrangement. But after so many years, should we consider implementing an incremental approach, so that the offsetting arrangement can be phased out gradually starting with long-serving staff? Of course, employers' assent must be obtained beforehand, but I think this is worth considering.

Regarding the problems with the MPF I mentioned earlier, I hope that we can first focus on how to automate and rationalize the system and then focus on how to make the public understand its operation. The public should understand that during young age, more investments can be made in high-risk funds, and as one ages, low-risk funds should start to occupy a larger proportion. It is also advisable to set up some automatic investment options based on contributors' ages and various risk factors.

But the main problem at the end of the day is that financial turbulence and fluctuations in the stock market may make us unable to attain the expected rates of return. This really presents a major problem. In this regard, I hope the

Government can consider any good suggestions from Members. What the Government needs to do in the time to come is to step up education, so that the public can understand that MPF returns will deteriorate if they do not properly manage their MPF portfolio. They must do their best to learn how to properly manage their pension funds, so that they can improve their retirement arrangements.

President, I so submit.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, today's proposed resolutions under the Mandatory Provident Fund Scheme Ordinance is actually very simple in content: raising the minimum level of relevant income for Mandatory Provident Fund (MPF) contributions from the original $6,500 to $7,100, and lifting the maximum level of relevant income for MPF contributions from $25,000 to $30,000. To average workers or employees, the impact does not seem very big. But if we do some serious and in-depth thinking, we will see that the matter is not so simple.

What are the most important problems? First of all, it is proposed to increase the minimum level of relevant income from $6,500 to $7,100, which means a mere increase of $600 only. Because of the present impact of the minimum wage increase, the incomes of many workers are higher than $7,100 and they will have to make MPF contributions as a result. But are the wages of workers really very high? No, their incomes only range from $7,500 to $7,800 in most cases. If they are made to make contributions, their disposal incomes will shrink, and their consumption power will be reduced correspondingly. With the very high costs of living these days, they are under very heavy pressure. Several hundred dollars may not matter so much to those of you sitting in this Chamber. But this sum of money will have very heavy impact on their daily living.

I wonder if Members have dined in a fast food restaurant lately. A simple set dinner now costs at least $40 to $50. Workers now find it very difficult to cope with their daily expenses. But they must similarly make MPF contributions. This is really a burden to them. The Government may say that the contributions made today are for future use. But as Members all understand, no one knows what will happen in the future.

Mr CHAN Kin-por kept mentioning administration fees in his speech. My point is that despite any reduction, such fees will still remain sizeable. And, although the Government has requested fund operators to reduce administrative expenses, administration fees must still be charged. So, how much return can there be at the end? No one knows. After looking at the performance of the MPF over the past 10 years or so, can we say that the MPF system is able to support people's living after retirement? I am sure all of you will say "definitely not". Am I right? Therefore, the making of mandatory MPF contributions as required by the Government really has very great impact on people, especially because contributions are spent on investments of a gambling nature.

In a recent visit to my constituency, a worker told me that he had never seen a Government that would compel its people to gamble. I would say that people are really very miserable. The Government forces people to gamble, but it does not guarantee any gains. In case of losses, people must themselves bear the consequence. This is the greatest misery. The Government has enacted a law to force people to gamble, but it does not give them any protection against losses. People must themselves bear the consequence. We think this is precisely what the crux of the problem is. That being the case …… Let me put aside the offsetting arrangement for the moment. But even if I only talk about retirement protection, the usefulness of the MPF system is still in doubt. What are the advantages of this system? There are no advantages. We can only pray, hoping that the investment market can remain profitable. It is only when the investment environment is good that we can have any prospects of a good life after retirement. If the opposite is the case, we will have no prospects. This is precisely the point that warrants a review of the entire system.

What is more, the MPF system is unable to address the retirement-related problems facing many families. As Members all know, housewives do not need to make any contributions. But what are they going to do when they reach the retirement age? They must continue to depend on their spouses or children. But housewives in grass-roots families cannot possibly do so because everybody is simply unable to support himself or herself. How can housewives depend on their family members then? So, this retirement-related problem cannot be solved. I fail to see how the present MPF system can be of any use in this respect.

Some Members have talked about the offsetting arrangement. The severance payment or long-service payment received by a worker upon dismissal will be offset against his employers' contributions to his MPF account. This

effectively means that he now takes the money in advance, and when he retires, he will get nothing. What is the point of this anyway?

The three points I have raised lead us to this question: can we really enjoy any livelihood protection after retirement? The answer may well be no, as nothing is certain. Therefore, I cannot see any merit with the system.

There is still another big problem. We now want to implement universal retirement protection, but the Government is using the MPF as a shield. It wants to put up some sort of resistance, saying that the MPF is one of the three pillars that can support our life after our retirement in the future. By advancing this argument, the Government is just using the MPF as a shield. Actually, this is also a reality because the operation and existence of the MPF mechanism have become the means of livelihood for a whole group of people, fund managers. If universal retirement protection is to replace the MPF, a whole group of employees will face unemployment. This has added an objective difficulty to the Government's handling of the MPF, thus inducing it to adopt an attitude of evading the issue of universal retirement protection and treating it as non-existent. This has not been mentioned recently. The Central Policy Unit has actually completed some studies, but it has withheld the findings. The Government likewise does not talk about it, pretending that the issue simply does not exist. In other words, there is no need for any further discussion.

Some people — I should not say some people. Many people do not make any MPF contributions, so how are they going to spend their old age? What can they depend on? Can they really depend on the other pillars mentioned by the Government, that is, Comprehensive Social Security Assistance (CSSA) and their personal savings? As you all know, if these people can have any personal savings, you and I will not need to worry about them at all. The people I am talking about are exactly those who cannot make any savings. The Government may tell these people who cannot make any savings that they can apply for CSSA. But then, the Government also says that CSSA makes people lazy, in a bid to discourage people from applying for CSSA. What is in the mind of the Government anyway? What can people who cannot make any MPF contributions do?

Ever since the establishment of MPF, the Government has focused on studying and exploring how all these figures can be adjusted. There have been constant adjustments, constant adjustments. But has the Government ever made any adjustments to the rationale, actual contents and underlying philosophy of the whole system? I cannot see any. Therefore, President, although we are only

supposed to discuss the adjustments of the minimum and maximum levels of relevant income under the two resolutions today, I must still regret the Government's failure to conduct a serious and comprehensive review of the nature and essence of the MPF system.

How can the Government tackle the impending problem of ageing population if it still refuses to conduct a review even now? The Government keeps telling us that population ageing is the biggest problem we are confronting. The Government also tells us that by the year 2033, one in every four citizens will be an elderly person. How can the problem be tackled? The Government has remained completely silent and indifferent, pretending that the problem is not there, just like an ostrich with its head buried in the sand. What kind of government is it? We have no alternative but to remind it repeatedly.

This is also the case with housing. We reminded the previous Government that housing is inadequate, asking it to construct more housing units. But it was unwilling to do so, thus causing a shortage of housing supply and making it necessary for the present Government to search far and wide for land, with the result that farmers must give up farming to vacate land for the Government's housing construction. In a similar fashion, I now tell the Government that retirement protection is a problem, and without universal retirement protection, the problem cannot be resolved. But the Government simply will not listen to us, probably until it has to search far and wide for solutions when the problem eventually surfaces. I do not think that any responsible government should behave like this.

A responsible government should have visions and long-term objectives, and should also choose a direction for all in the government to follow. But there is no direction. What it presents to us today are only the adjustments of certain figures. There is nothing more. What is more, in adjusting these figures, the Government has overlooked the consequence that because of the upward adjustment of the minimum level of relevant income from $6,500 to $7,000, low-income earners will also need to make MPF contributions. Has it ever considered their livelihood? In case they face any difficulties, what should be done? Has the Government ever considered these people?

Working poverty is likewise an embedded social conflict and problem, but the Government also turns a blind eye to it because there is no connection among different government departments. The relevant departments only focus on the adjustment or upward adjustment of MPF figures. They will do nothing more

than this, and they simply ignore all other issues. On the other hand, other government departments say that this is just a MPF issue and they have nothing to do with it. They will not care about those affected by the adjustment.

But the adjustment of the minimum level of relevant income of MPF contributions will certainly affect low-income people and will exert livelihood pressure on them. The Government, however, pays no heed to this. It only tells us today that adjustments will be made on the basis of changes in the Cost of Living Index and wages. Therefore, President, I am deeply disappointed. I am not disappointed at you. I am disappointed at this Government.

Rather than seriously considering how best to deal with all the deep-rooted social conflicts, the Government has just kept turning in its "homework". Its only concern is to turn in its "homework" on time. And, it has paid no heed to the quality of the "homework", simply allowing the problems to linger. Therefore, the MPF issue does have a connection with universal retirement protection. I hope the Government can stop ignoring this point.

Meanwhile, in the interim to resolving the problem of universal retirement protection, many employees are asking why their long-service payments and severance payments must be offset against their employers' MPF contributions for them at the time of their dismissal, saying that this will take away part of their accrued benefits. This problem has been discussed for years. It has not been dealt with since day one.

Mr CHAN Kin-por remarked just now that if employees wanted to tackle this problem, employers' consent was a pre-requisite. In fact, whether employers will give their consent depends entirely on the Government. If the Government does not take the lead, it will be very difficult to require employers to consent voluntarily. They definitely will not do so. Hence, I want to know whether the Government will hold any active discussions with employers after today's adjustments and then put forward a proposal, telling them that this kind of offsetting is not satisfactory, that for the sake of retirement protection, long-service payments and severance payments should be put back into the MPF accounts of their employees, so that citizens can get their contributions back after the age of 65 rather than having them offset. These are my views on today's proposed resolutions.

President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first of all, I thank the Chairman of the Subcommittee and Members for their speeches. The views put forward by Members involve a number of areas, and Members have already discussed all these areas on various occasions and also in a number of debates concerning the Mandatory Provident Fund (MPF) in the Legislative Council before, and I have listened to these discussions for many times. It is precisely because of these views that the Government and the Mandatory Provident Fund Schemes Authority (MPFA) have, over a period of time, actively reviewed the effectiveness and fee levels of the MPF system, and also whether any arrangements can be made to provide choices for the public under the MPF system.

I cannot respond to Members' views one by one on this occasion today. But let me reiterate that as a direction of the review, we agree that the MPF has provided a most constructive mechanism for the overall retirement protection in Hong Kong. We agree that there are indeed inadequacies and will address them squarely. For this reason, since last year — or even the year before last — the Administration has been asking the MPFA to conduct a review on fee levels, fee structures, structural improvements that can lower fees, and also improvements to options of available funds, so as to provide the public with products that are structurally simple and easy-to-understand.

This review has enabled us to have a greater understanding of the structures of MPF fees and highlighted some problems. Some Members mentioned earlier that the overlapping administrative mechanisms for the management of MPF funds have resulted in exorbitant fees. In this connection, we have adopted a range of measures in the hope of improving fee levels, including streamlining administrative procedures and re-organization of funds. We will also consider

whether we should legislate for a fee cap to make fees more reasonable. Certainly, we will not adopt this measure lightly, but will do so only when the market fails to function properly. Having said so, I hope that Members will not doubt the Government's determination to improve the overall effectiveness of the MPF. Of course, after the Government and the MPFA have completed the internal studies on the relevant measures, we will certainly brief the Legislative Council on the work we intend to take forward.

Let me focus on the views relating to this motion today and briefly respond to the views expressed by Members earlier on.

First, concerning the views on the maximum level of relevant income (Max RI), the Government understands that various sectors of the community hold different views on the proposals relating to the Max RI. We consider it necessary to make timely and appropriate adjustments to the Max RI, in order to enhance the retirement protection for people in employment. I wish to point out that the Max RI has been adjusted only once in 2012 since the implementation of the MPF system in 2000. The current proposal to further increase the Max RI has fully taken into account different views in the community, including the concern of the business sector about an increase in operating costs and the wish of employees to maintain flexibility for making investment on their own.

As for the commencement dates of the new level, as I said earlier on, considering that the existing level came into force only as recently as 1 June 2012, we have decided that the new level shall take effect as from 1 June 2014, so that employees, employers and self-employed persons can have a longer time to adapt to the change.

Some Members have expressed views on the review of the statutory mechanism for adjusting the maximum and minimum levels of relevant income. The MPFA has set up a working group for launching the review and is expected to conduct consultation on various proposals within this year. We will consult the Legislative Council at a later time. Our objective is to table the proposals on the legislative amendments to the Legislative Council within this term of the Legislative Council and future adjustments to the income levels will then be made according to the new mechanism.

President, I hope that Members can support our amendments to the two pieces of subsidiary legislation.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the first 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.

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, you may now move the second motion.

PROPOSED RESOLUTION UNDER THE MANDATORY PROVIDENT FUND SCHEMES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that this motion, as printed on the Agenda, be passed.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013, made by the Chief Executive in Council on 28 May 2013, be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the second motion moved by the Secretary for Financial Services and the Treasury 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.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. There are a total of three Members' motions for this meeting.

First Members' motion: Mr Ronny TONG will move a motion under Rule 49E(2) of the Rules of Procedure to take note of four items of subsidiary legislation, which were included in Report No. 21/12-13 of the House Committee laid on the Table of this Council.

PRESIDENT (in Cantonese): According to the relevant debate procedure, I will first call upon Mr Ronny TONG to move the motion. The debate will be divided into two sessions. The first session is to debate two items of subsidiary legislation under the Trade Descriptions Ordinance; the second session is to debate two items of subsidiary legislation under the Building Ordinance.

Each Member may speak only once in each session and for up to 15 minutes each time. In each session, I will first call upon the chairman of the subcommittee formed to scrutinize the relevant subsidiary legislation to speak, to be followed by other Members. Finally, I will call upon the relevant public officer to speak.

The second session will start immediately after the relevant public officer has spoken in the first debate session. The debate on this motion will come to a close after the public officer has spoken in the second debate session. The motion will not be put to vote.

PRESIDENT (in Cantonese): I now call upon Mr Ronny TONG to move the motion.

MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE

MR RONNY TONG (in Cantonese): President, in my capacity as Deputy Chairman of the House Committee, I move the motion as printed on the Agenda under Rule 49E(2) of the Rules of Procedure to enable Members to debate on the following four items of subsidiary legislation included in Report No. 21/12-13 of the House Committee on Consideration of Subsidiary Legislation and other Instruments:

(1) Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice;

(2) Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice;

(3) Building (Minor Works) (Amendment) Regulation 2013; and

(4) Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice.

Mr Ronny TONG moved the following motion:

"That this Council takes note of Report No. 21/12-13 of the House Committee laid on the Table of the Council on 17 July 2013 in relation to the subsidiary legislation and instrument(s) as listed below:

Item Number	Title of Subsidiary Legislation or Instrument
(1)	Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice (L.N. 71/2013)
(2)	Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 72/2013)
(3)	Building (Minor Works) (Amendment) Regulation 2013 (L.N. 73/2013)
(4)	Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 74/2013)."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Ronny TONG be passed.

PRESIDENT (in Cantonese): We now proceed to the first debate session to debate the two items of subsidiary legislation under the Trade Descriptions Ordinance, that is, Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice and Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice.

Members who wish to speak on the two items of subsidiary legislation will please press the "Request to speak" button.

MR SIN CHUNG-KAI (in Cantonese): President, the House Committee has set up a subcommittee to scrutinize two items of subsidiary legislation, namely, the Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice and Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice. In my capacity as Chairman of the Subcommittee, I now report on the deliberations of the Subcommittee.

First, the aim of the first notice is to state that when the Communications Authority (CA) is to take enforcement action according to provisions under section 16E(2) of the Trade Descriptions Ordinance, it has certain unexercisable powers. The aim of the second notice is to designate the date of 19 July 2013 as the commencement date under section 1(2) of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance (TD(A)O).

The Subcommittee held one meeting with the Administration to discuss these two items of subsidiary legislation and related matters. Members in general support these two notices.

Some Members have expressed concern about the exercise of powers by the CA and the Customs and Excise Department (C&ED) to regulate commercial practices of telecommunications and broadcasting licensees. According to the Administration, in cases where the prohibited trade practices are related to telecommunications and/or broadcasting services as well as goods/other services, the C&ED may conduct joint operations with the Office of the Communications Authority (OFCA) in taking enforcement actions, with the OFCA providing the required expertise and technical support. A memorandum of understanding will be signed between the Commissioner of the C&ED and the CA for clear delineation of work upon the commencement of the TD(A)O.

As the modes of operation vary in different sectors, some Members have expressed concern about the compliance with the TD(A)O. They urge the Administration to enhance communication with the various sectors in the implementation of the TD(A)O. The Administration has advised that it would step up the publicity and public education efforts before and after the commencement of the TD(A)O. Besides, the Consumer Council will produce video episodes on the new offences for broadcasting through various channels. Educational websites will be established by the enforcement agencies and the

Consumer Council, and seminars on the new offences will be conducted for traders, schools, District Councils, and so on.

The Panel has been advised that when the TD(A)O comes into effect, a set of enforcement guidelines will be issued under sections 16BA and 16H of the Trade Descriptions Ordinance. Some members are concerned about when and how the guidelines will be reviewed. The Administration has advised that although there is no pre-set date for reviewing the enforcement guidelines, the law-enforcement agencies will, in the light of enforcement experience upon commencement of the TD(A)O and changes in market practices, consider whether the enforcement guidelines should be adjusted.

At the request of the Subcommittee, the Administration will update the Panel on Economic Development on the progress of the implementation of the TD(A)O six to nine months after its implementation.

President, the following are my personal views.

With respect to these two notices, the one with a greater impact would be that about the commencement date. Since the relevant subsidiary legislation adopts the negative vetting procedure, the deadline for making amendment has expired and the Ordinance concerned should come into force two days later. As a matter of fact, there have been quite a lot of media reports and press interviews over the past few days, and the Consumer Council has already stepped up its publicity. The piece of legislation is the work done by the previous-term Council. We are only completing the last step, and we have not done anything to hinder the commencement date. We think that this is an improvement which the public have been longing for.

As directly returned Members, we often receive complaints about these "unfair trade practices". We hope that after the Ordinance has fully come into force, the protection for consumers can be enhanced.

As the Subcommittee has said, since the Ordinance is something new, there may be complaints of various kinds from both sides soon after the commencement, such as on whether certain practices should be regulated and so on. There is also a possibility that not many precedents can be found. The Government may have to begin considering this, especially with respect to the assistance which the Consumer Council can give. As I have just said, this

Ordinance is something new. Now it is July, and the beginning of next year may be a suitable time to examine how the Ordinance is being implemented. The Panel on Economic Development may listen to views on the influence of this Ordinance on the public at large.

As the spokesman of the Democratic Party in economic affairs, I wish to show our strong support for this Ordinance because it can protect consumers when they enjoy the services.

With these remarks, I hope that the Government can step up its publicity and educational efforts.

MR WONG KWOK-HING (in Cantonese): President, I support these two Notices. And I am glad that this law will come into effect two days later. I think we should commend the Secretary. However, I am not very satisfied with his reply this morning and I hope he can follow up with the Chief Executive.

This piece of legislation deals with six unfair practices in the sale of goods and provision of services. They are: first, false trade descriptions of goods; second, misleading omissions; third, aggressive commercial practices; fourth, bait advertising; fifth, bait-and-switch; and sixth, wrongly accepting payments. These six unfair trade practices are closely related to Hong Kong people and also the question of whether Hong Kong can maintain its position as a shoppers' paradise, and a place where consumer rights are protected as a matter of people's livelihood concern.

President, I am a directly elected Member, and over the past few years, I have received many complaints from consumers. A number of these complaints are still being handled, and our Complaints Division is following up some others. I therefore welcome the efforts of the Government over the years and also its willingness to accept our suggestions and introduce corresponding Committee stage amendments (CSAs). I hope that the Government can have both the will and the strength to enforce the legislation, and that it will punish the wrongdoers, so that those "big tigers" who bully the public through various fraudulent means can be brought to justice. That way, the law will be able to achieve the desired result. If not, these two items of subsidiary legislation will be reduced to two "toothless tigers".

Why do I use these words to express my hope? We all know that people who want to buy food, oil, fresh produce or daily necessities every day must inevitably patronize the two or three local supermarket chains. One can actually say that we do not have any choice. Do these supermarkets contravene or violate the relevant law and adopt any false descriptions and fraudulent means? The answer is yes.

In the past, I held quite a number of press conferences to expose some acts of the relevant sector. One example is that the pork being sold is not from locally raised pigs, but they use the label "pork of locally butchered pigs". The pork is from pigs locally slaughtered, but not from pigs raised locally. This is only a trick to mislead consumers. Also, the unit of sale may suddenly be changed from one "pound" to one "catty". This is another example of how consumers are misled. Supermarkets like to raise prices from Monday to Thursday. But on Friday, Saturday and Sunday, they will offer "bargain prices", "the lowest prices" and "the cheapest prices in town" to lure customers because these days in the week are holidays, when many people presumably do not need to work the next day and may thus want to do bulk shopping. But are there any justifications for all these price claims? Can the claims be substantiated? So, I think this Friday will be an acid test for the enforcement agencies. When a supermarket talks about "the lowest prices", "the cheapest prices in town" and "bargain prices", I must ask, "What were the original prices? When were the original prices set?" When "bargain prices", the "lowest prices" and 'the cheapest prices in town" are offered instead of the original prices, I must ask, "How much time has passed in between?" Let us all wait and see whether the authorities can enforce the law with enough force and impartiality, and whether their efforts can stand the test of time.

I very much hope that when the law comes into force, these monopolistic supermarkets will themselves stop their malpractices, so that the authorities do not need to take any enforcement actions, because enforcement is not the most desirable course of action. The ideal scenario is that once the law comes into force, shops will no longer dare to break the law. I very much hope that this will be the case. But will it really be the case? I am sure cats all love fish. Despite their control and monopolization of the market, these supermarkets, I am sure, will be greedy as ever in the face of profits. I therefore hope that the authorities can closely monitor all these problems.

There are some trade descriptions which do not state clearly the date before which the food can still be eaten, and certain false and misleading descriptions such as "before a certain date" are used. There were already lots of arguments over this when we discussed the food labelling law. We can see that many foods which have passed their expiry dates and many products and foods which may have contravened their relevant descriptions are still on sale. This is tantamount to cheating consumers. I think the authorities should follow this up.

President, this time around, the objective is to combat six kinds of dishonest, wrongful and deceiving acts targeting on consumers. However, I think that the authorities must still need to follow-up many fine details and particulars in the course of implementation, because what are involved are not only goods but also various malpractices related to services, such as aggressive commercial practices. Lots of complex issues are involved here and the authorities need to do follow-up in many areas.

President, I am holding a copy of *Ming Pao* which carries its report on a certain investigation. I am grateful to *Ming Pao* for devoting great lengths on 24 June and 15 July to expose a practice which I regard as aggressive commercial practice in service delivery. What is the report all about? It reminds small depositors that they must carefully watch their deposits and their savings, that they must protect their own money lest their money may easily disappear. Actually, banks should be the ones to encourage people to save. But as revealed in the report, banks will deduct money from people's accounts without getting their consent and notifying them. Several cases are revealed. A depositor of Standard X Bank had a balance of $2,900 in his account back in 1983, and after 30 years, the principal and interest should add up to $5,700. But when this person wanted to withdraw the money last month, the bank told him that there was no more money in his account. He himself did not withdraw the money, nor was his money stolen. It was the bank which had deducted all the money. In the second case, a depositor of Bank of East X had a balance of $3,000 in his account in 1985, but several decades later all his deposit similarly disappeared. Also, a depositor of another bank had some $7,000 in his account in 1989, but 24 years later, all his money disappeared after many deductions.

Is it correct for the provider of this commercial service to adopt such a practice to treat small depositors and small consumers? Does the Government agree to this practice? These cases are only the tip of the iceberg. According to the report in *Ming Pao*, at present the number of accounts in Hong Kong with a balance of less than $10,000 is around 1.58 million to 2.38 million, that is, about

2 million small account holders. If the banks deduct $50 from each account, then the amount of deductions made every month will be $100 million. So when small sums add together, they will become a huge sum. I hope that the Secretary can do some follow-up to ascertain whether this kind of practice commonly adopted by the banks actually amounts to an aggressive commercial practice. Is it an aggressive commercial practice to reject an account opening request on the grounds that the applicant does not agree to allow the bank to deduct money from his account?

From another perspective, we can see that the banks have totally run counter to their corporate social responsibility. The banks nowadays are totally unlike the banks several decades ago, which aimed to serve the community and encouraged people to amass money through small savings for establishing their businesses and families. The banks nowadays have run counter to this tradition and have even joined hands to oppress depositors. While one bank fleeces small depositors by charging various fees, another one simply deducts money from small depositors' accounts. I do not think that this is a desirable commercial practice. I hope that when the law commences this Friday, the Secretary can follow this up at once. I will follow this up in the relevant Panel in the next legislative session, that is, when the Council commences again this October. But that will be a few months later. I hope by that time the Secretary can already give us his follow-up report. This is really an important issue, and it will test how the Government will put these laws into practice, and whether the rights of the consumers can really be protected.

President, lastly I still wish to say that when discussing these two laws, all of us were aware that the problem of a cooling-off period had not been solved. A cooling-off period will give greater protection to consumers. But I also understand what the Administration said when explaining these two laws: it is for the time being difficult to introduce a cooling-off period because of various practical difficulties, such as the problems of refund and the use of credit cards in payment. I therefore hope that after the commencement of the laws, the authorities can follow up the issue of introducing a cooling-off period and make improvements. After the law has been in force for a certain time, say, one year, there should be a review of it for the purpose of making follow-up amendments.

Lastly, I am concerned about the authorities' strength of enforcement. At present, the enforcement of the laws requires the inspections conducted by the Customs and Excise Department (C&ED) and Customs officers will be in charge of prosecution. Does the C&ED have enough manpower? I hope the Secretary can explain to us later whether he has enough manpower to handle consumer

complaints and whether there is any performance pledge for handling complaints. We need more than just having somebody to receive and listen to complaints. We also need to know whether there are any performance pledges and time frame for replying to a complaint. One reason is that I have just handled a case about the purchase of a coffee machine by a member of the public. The coffee machine developed a problem subsequently, and the merchant failed to fix the problem. He hence complained to the C&ED, but was still unable to get a solution. So, he approached the Complaints Division of this Council. In the end, we had to write a letter to the C&ED urging it to give an explanation. So I hope the Government can pay more attention to these problems. Otherwise, I am worried as to whether the rights of consumers can really be effectively protected after the commencement of the laws.

Lastly, let me say one more word. Should the authorities explore the expansion of the Consumer Council's powers at a suitable time, so as to further protect the rights of consumers and enable the Consumer Council to play a more significant role?

Thank you, President.

MR RONNY TONG (in Cantonese): President, as far as I can remember, no other legislation has ever attracted as much media and public concern about its commencement date as this one. The concern this time seems to be greater than the attention given to the passage of the Competition Ordinance last year.

President, in the past couple of weeks, I received enquiries from the media and the public almost every day. Their questions have made me realize that there are many ambiguities and inadequacies in the legislation. President, time and again, the media asked me questions on some special but practical situations, and I could not give them any reply because I did not know the answer. This highlights the fact that although the legislation is of a certain degree of help to consumer protection, it is still inadequate in some ways.

Let me perhaps give the Secretary a brief account of the problems, and I hope he can pay attention to them. President, for example, when discussing the offence of misleading omissions, the first question the media or members of the public ask is: if the information omitted is set out as a footnote in fine print, or if it is even printed at the back of the document, will this be regarded as a misleading omission?

President, I know that under the Telecommunications Ordinance, if such things happen, especially with data usage and download rate …… it is an offence to print supplementary information in a font size not similar to the font size used in the main text. But in the Amendment Ordinance under discussion, there is no similar provision. If someone sets out information regarded as misleading in a very small font size or in an inconspicuous place in the document, will this be a contravention of the law? President, I hope the Secretary can consider this point.

Second, many journalists also have the following query. These days, many mass media, such as newspapers, weeklies or even television, frequently carry some stories on people's personal experience of using various goods and services. These are advertisements, but not specifically stated as so. My interpretation is that under this legislation, even if any such story is not specifically stated as an advertisement, the suppliers may have already committed the offence of misleading omission I mentioned just now. But should the newspapers, radio stations and television stations carrying such advertisements also be held liable? This is because as broadcasting media, they should state clearly that all such reports are merely advertisements, not actual news reporting or verified facts.

This brings out another question. In case a person purports to be a consumer narrating his personal experience and talking about the benefits or uses of a certain product or service, President, the person concerned is actually employed by the supplier to say so, and he must be making an advertisement. Should such a person be held liable as well?

President, another example is about aggressive commercial practices. Under the existing legislation, there is no clear definition of "aggressive", nor is there any distinction between perceived aggressive behaviour and objective aggressive behaviour. Let me give a simple example. A shop assistant may act "aggressively" towards a consumer to coerce him, but the consumer is a man of strong will and does not succumb to the coercion. In that case, does the shop assistant commit an offence? On the contrary, a consumer may be an especially weak-minded person, and even though a shop assistant is just bit forceful in tone, he may already feel intimidated. In that case, does the shop assistant commit an offence?

President, I am sure such cases are often observed in shops. The examples I have given are actual examples. Many media people have asked me

how the legislation should be enforced if such situations happen. I think that the occurrence of such problems in the course of implementation will serve precisely to highlight the need for improving the legislation. I hope that in the next six months, the Secretary can listen to more views on how the legislation is implemented, and then decide whether the legislation should be further amended to provide greater help to consumers.

President, lastly, I must talk about the issue of a cooling-off period. This is especially important in the case of transactions relating to the beauty care industry and the physical fitness industry. Many consumers pay large sums of pre-paid fees to operators in these industries, but they regret soon afterwards. Maybe, they are unable to resist persuasion, so they end up bound by contract terms and purchase obligations for several years. This is not very fair to consumers.

President, I am requested to make use of this opportunity to put forward the above suggestions to the Secretary. I hope that the Secretary will consider them carefully and propose amendments as soon as possible so that the legislation can be improved. Thank you, President.

DR ELIZABETH QUAT (in Cantonese): President, I certainly welcome the commencement of Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012. Over the past few years, I have handled many different kinds of complaints from consumers. These several hundred complaints can be divided into the following categories: first, those about travel club membership; second, those related to fitness clubs; third, those about offering sales positions as a bait to ask people to purchase some courses; fourth, pre-paid sales involving different services, such as beauty services as mentioned just now; fifth, complaints from people saying that the elderly persons in their families have been coaxed into buying some useless products described as some sort of panacea.

When I look at all such complaints and the present Amendment Ordinance, I am really worried. The Amendment Ordinance also covers services, but can consumers really get enough protection? The Amendment Ordinance introduces provisions on aggressive commercial practices, and this may be of some help in the case of travel club membership. But people who engage in such sales tactics have already expected that they may be charged for aggressive practices, so they have taken certain precautionary measures to make it impossible for consumers to

prove that they purchased the goods or services concerned as a result of any aggressive sales practices. One example is that a consumer is surrounded for hours by a group of people who do not allow him to leave or go to the washroom. One moment in the process, the consumer is coaxed, cheated or scolded, but the next moment, those people will shake hands with him, take photos of him or take photos with him. This makes the consumer think that he buys the goods or service out of his own free will. In the end, he signs a membership contract for many years. In such circumstances, it would not be easy to adduce evidence.

(THE PRESIDENT'S DEPUTY, MR RONNY TONG, took the Chair)

We have also heard many cases related to fitness clubs. In some of the cases I have come across, the complainants are young people who have just started working, and who earn a monthly salary of less than $10,000. They walked into a fitness club one day, and then ended up signing a membership contract for eight or 10 years requiring a monthly fee of some $2,000. Are the sales practices concerned aggressive commercial practices? How can evidence be adduced? If a complaint is made but no evidence, video or sound recording can be provided, how can complainants be protected? I have doubts on that. Another kind of complaints is about offering sales positions as a bait. In the end, the applicant is coerced, demanded to purchase certain courses first, and told that the fees will be refunded to him after products are sold by him in the future. The victims in these cases are job seekers, but they become consumers in the end. In the cases I have here, the victims are students and they end up paying with three credit cards or even borrowing a personal loan of some $30,000 at an annual interest rate of some 40%. Will these consumers be protected when the Amendment Ordinance comes into force?

Let me put aside pre-paid beauty care services for a moment. There is another problem which we do not know how to handle. I want to ask the Secretary for his advice. There are many organizations which hold some activities called tea gatherings and they invite elderly people to have tea and listen to talks. People who come will be given some small gifts like toilet paper, shampoo, detergent and so on. After several such gatherings, staff of the organizer will begin to sell products like mattresses, pillows or some equipment which they claim can cure all diseases. I have handled a complaint case in which the complainant's mother bought a mattress which cost some $20,000, and which they claimed could cure all diseases. When the mattress was sent to their

home, her son immediately knew that it had no curative effect. But his mother firmly believed that it had. And, there was no refund mechanism. After the Amendment Ordinance comes into force, can these consumers be protected? I therefore hope that the Government can pay attention to all kinds of unfair trade practices, especially aggressive sales tactics, and see how enforcement and prosecution can be effectively enhanced, and how publicity and educational efforts can be stepped up, so that consumers will know what their rights are and how they can be protected. However, as I have just said, even when the Amendment Ordinance comes into force, can it definitely offer any protection with respect to the five kinds of sales practices I have mentioned?

All along the DAB has been urging the Government to introduce a cooling-off period. But due to various reasons, the Amendment Ordinance does not contain any provisions on a cooling-off period. If a cooling-off period is introduced, there may be some protection for consumers when they face the abovementioned five types of sales practices. At least, elderly persons, students, women or job seekers who are instead coerced to buy products can still have a chance to cancel the transaction when they find out afterwards that they have been cheated. In this way the rights of consumers can be protected. I hope that the Bureau can review this legislation as soon as possible and study how it can be further amended to enhance consumer protection.

On the other hand, the various trades and industries are very worried at this moment, and people running SMEs are very frightened. For example, the Hong Kong Book Fair has just opened, but many exhibitors really do not know what will constitute an offence and whether they have already broken the law unknowingly. Therefore, I hope that besides conducting publicity and education, the Government can join hands with the trades and industries to compile a code of practice and give them a set of clear guidelines complete with industry-specific examples. This will enable stakeholders in the SMEs and in various trades and industries to know how they can run their business in a lawful and appropriate manner. This move can help them run their business and dispel their worries while further protecting consumer rights.

Deputy President, I so submit.

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

MR CHARLES PETER MOK (in Cantonese): Deputy President, with respect to the Trade Descriptions Ordinance, I would also like to make a few comments, because in our communications industry, the situation is rather troublesome at times, and the troubles we face are particularly numerous. Why? From the figures in the reports of the Consumer Council over the years, we can see that the communications industry, which comprises radio broadcasting, free television, pay television and telecommunications, has attracted a particularly large number of complaints. Under the legislation under discussion, two regulatory bodies are responsible for monitoring the industry: the Communications Authority (CA) and the Customs and Excise Department (C&ED).

A couple of days ago, I had a chat with people in the telecommunications and broadcasting sectors, and I asked them whether they knew at what time which department would approach them, that is, when the C&ED would approach them and when the CA would do so. They all said they did not know. On my part, it was only after I had joined the Subcommittee to deliberate the Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice that I finally came to know the answer. But although I know the answer, I do not know it fully. Why? During our discussions in the Subcommittee, we found that we were not provided with the memorandum of understanding entered into between the C&ED and the CA.

When the Subcommittee started to hold meetings, there was just less than one month to go before the commencement date of legislation. The legislation is due to commence on 19 July, so we could ill-afford any further delay and must work to enable the legislation to commence as scheduled. But now …… And, the media have also asked me many questions. Now, people are already starting to ask many questions on the examples they can think of, such as the speed of broadband Internet browsing as well as unlimited data usage, trying to ascertain whether there will be any problems.

But we know that the occurrence of such problems may not be wholly attributable to the intention of service-providers to cheat the consumers in many cases. Sometimes, some genuine technical problems are the reason. It is difficult to explain these problems. Of course, operators have the responsibility to explain things in detail to consumers. But then, no matter what, the legislation must commence two days later. So, what can be done? Actually, they are very worried. In the past couple of weeks alone, many people in the sector all told me that they wanted the enforcement agencies to explain the legislation to them because they wanted to know the answers to many questions.

So, I started to make preparations, like calling meetings, looking for the public officers concerned to explain the law. Even though I did not know whether the explanation would be satisfactory, I thought I must still spend time on making preparation. What is more, as the legislation would commence very soon, people in the industry were very worried.

Sometimes, we all thought that the Government should have launched its publicity and education efforts earlier. But I know it is useless to complain any more now. The legislation will soon commence, so I hope that the Government can really continue to explain in detail to the industry and also consumers how the enforcement agencies are to enforce the legislation.

Finally, I want to say a few words on Mr WONG Kwok-hing's remarks just now. He hopes that two days later, the authorities will send a whole army of officers to take enforcement actions. I would think that this is alright in some cases but I do not want to pinpoint when enforcement actions should be taken and when they should not. This is because these are to be decided by the Government. The Government says that there is no grace period under this legislation. I think I must advise the Government that it must be very careful. It must be very careful when enforcing the law and it must see how enforcement experience can be gathered. It must not be too stringent right from the beginning. We must protect consumers and we must crack down on some operators, those "big tigers", as Mr WONG Kwok-hing has put it. We are afraid that the Government may not be able to crack down on the "big tigers" but may instead victimize some SMEs. So we have to strike a balance between the two. We have to gather experience in enforcement and we must not underestimate the possible backfire if the enforcement action is not well taken.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Members have finished speaking in this debate session. I now call upon the Secretary for Commerce and Economic Development to speak. After the Secretary has spoken, this debate session will come to a close.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, first of all, I must express my heartfelt gratitude to Mr SIN Chung-kai, Chairman of the Subcommittee to study these two items of subsidiary legislation, as well as members of the Subcommittee, for the valuable advice they gave while deliberating the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice and the Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice (the CA Notice). I am also grateful for their support of the two Notices.

The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Amendment Ordinance) was passed by the Legislative Council on 17 July 2012. The Amendment Ordinance expands the coverage of the existing Trade Descriptions Ordinance, so that besides false descriptions in respect of goods, the prohibition is extended to a number of other unfair trade practices deployed by traders against consumers, including false trade descriptions in respect of services, misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment. It also introduces a civil compliance-based mechanism to encourage compliance by traders and to stop identified non-compliant practices, under which the law-enforcement agencies may, after consent is sought from the Secretary for Justice and as an alternative to criminal prosecution, accept an undertaking from the trader concerned to stop that unfair trade practice. This mechanism runs in parallel with criminal punishment and it enables traders to rectify their improper trade practices while offering effective protection to consumers. In addition, the Amendment Ordinance also sets out provisions to assist aggrieved consumers in their claim for compensation. The Amendment Ordinance will enhance protection offered to consumers while also creating a level playing field for honest traders so that they can benefit with consumers.

Since the passage of the Amendment Ordinance, the authorities have proceeded with a number of preparatory work. First, with respect to enforcement agencies, that is, the Hong Kong Customs and Excise Department (C&ED) and the Office of the Communications Authority, which is the executive arm of the Communications Authority (CA), they have drafted a set of enforcement guidelines. A public consultation exercise on the draft enforcement guidelines was held from December 2012 to March 2013. Close to 20 consultation sessions were held, with participants from chambers of commerce, trade associations, individual traders and the general public. The enforcement agencies have acted on the views collected during the consultation period and

revised the draft enforcement guidelines to achieve greater clarity and easier comprehension. At the request of the Subcommittee, we have provided the final version of the enforcement guidelines to the Subcommittee. The final version of the enforcement guidelines was made public on 15 July and we believe that this set of guidelines can effectively help all stakeholders understand the Amendment Ordinance as well as their rights and responsibilities.

In addition, we know that certain people in the trades are worried that complaints of a frivolous and trivial nature will increase and this will affect their business. In view of that, we have made it clear in the enforcement guidelines that the enforcement agencies may carry out a preliminary enquiry into the complaint made by the consumer and the complainant may be asked to provide full details and further information when necessary, then an assessment will be made as to whether further action will be taken. If it is found that the complaint is obviously unfounded and cannot be substantiated, the enforcement agencies will not proceed with the case. We consider that this will be sufficient in dealing with unreasonable complaints and so there is no need for the trades to be too worried.

Apart from compiling the enforcement guidelines, training for enforcement officers has been undertaken and a comprehensive publicity campaign is being launched to educate traders and consumers so that they can understand the requirements in law and their rights and responsibilities.

Work is being done to co-ordinate all relevant bodies including the enforcement agencies and the Consumer Council with respect to their division of labour and the referral mechanism. In response to the concern expressed by Mr Charles Peter MOK, while the C&ED is the principal agency for enforcing the Ordinance, the CA is conferred a concurrent jurisdiction over commercial practices of licensees under the Telecommunications Ordinance and the Broadcasting Ordinance that are directly related to the provision of telecommunications services or broadcasting services. Since the jurisdiction of the CA is limited, when enforcing its statutory duties, part of the powers such as those related to the goods concerned, are deemed as not necessary. Therefore, the Chief Executive in Council made the CA Notice to specify the powers that are not exercisable by the CA in its enforcement of the Amendment Ordinance.

With a view to enforcing the Amendment Ordinance effectively and ensuring that every actionable case is taken up by the appropriate party, the two

enforcement agencies have worked out a clear delineation of work. A memorandum of understanding is to be entered into according to the requirements of the Amendment Ordinance for the purpose of co-ordinating the performance of their functions. A draft memorandum of understanding has been provided to the Subcommittee on the relevant subsidiary legislation for its reference and it will be entered into and made public after the Amendment Ordinance has come into operation.

The Subcommittee is concerned about the powers exercised by the C&ED in regulating telecommunications and broadcasting services. I wish to stress that the enforcement powers currently conferred on the C&ED under the Trade Descriptions Ordinance have not changed and they are essential in cracking down on unfair trade practices. The powers are restricted by provisions in the Ordinance and there is a clear delineation of work between the C&ED and the CA in enforcement. In response to the concern expressed by Mr WONG Kwok-hing and Mr Charles Peter MOK, the C&ED will be prudent in exercising the powers and will strictly comply with the requirements in law. In fact, the Amendment Ordinance applies to commercial practices of traders in all trades under regulation and will not be confined to telecommunications or broadcasting services.

After almost one year of active preparation, the various items of preparatory work on the implementation of the Amendment Ordinance are already complete. Therefore, the Amendment Ordinance will come into force the day after tomorrow, that is, 19 July. We are very grateful to the Legislative Council for the support given to the Amendment Ordinance.

After the Amendment Ordinance has come into operation, the enforcement agencies will keep a close watch on the market situation and accord priority to investigating cases with substantial impact on consumers, the trades and society as a whole. And, inspections with specific targets will be conducted when necessary. The enforcement agencies will continue to liaise closely with the trades and will conduct briefings for different trades and pay visits to traders to help them understand how the requirements in law can be complied with. This will hopefully achieve a win-win situation for consumers and the trades. A review of the enforcement guidelines will be considered when necessary in response to the latest market developments. The two enforcement agencies will keep in close contact and share their experience in operation and they will strive to ensure that the work and standards used in enforcement are consistent. We will continue to educate consumers on the law so that they can better understand

the protection they have and we will also promote the idea of a smart consumer and remind consumers that they should think carefully before they make a decision in consumption.

Many Members have expressed their views on the setting of a mandatory cooling-off period. With respect to setting such a mandatory cooling-off period, there were discussions in society during our public consultation exercise held in 2010 to 2011 on the legislative proposals to combat unfair trade practices. And, we also talked with various stakeholders about this. On the one hand, consumers have a certain expectation for a cooling-off period. But on the other hand, some basic problems related to implementing a cooling-off period that need to be considered are by no means simple but very controversial instead. For example, should a cooling-off period be adopted across the board for all goods and services? What should be done for transactions in small amounts? Can consumers use the goods or services concerned during the cooling-off period? If a consumer has used part of the goods or services during the cooling-off period and when he proposes to cancel the transaction, will the consumer be required to pay for the goods or services he has enjoyed? How should the value be calculated? We cannot ignore other practical operation problems like how a consumer can exercise his right to cancel a contract, how a refund should be made, and so on. Some members of the trades think that a cooling-off period will add to the costs of honest businessmen but it will not be very effective on unscrupulous businessmen. After liaising with the stakeholders and making our own careful consideration, we think that we have to ponder over these specific operational matters carefully, and since we want to handle unfair trade practices as soon as possible, we have not added any provision on setting a mandatory cooling-off period in the Amendment Ordinance.

The Government understands that there is public expectation for the setting up of a cooling-off period, but a cooling-off period will bring marked changes to the mode of transaction and produce a great impact on both traders and consumers. Hence the issue cannot be handled rashly. In fact, with its criminalization of unfair trade practices and the new offences of aggressive commercial practices, wrongly accepting payment, bait-and-switch, misleading omissions, and so on, the Amendment Ordinance will be able to crack down on these unfair trade practices at root and enhance the protection for consumers. We will keep a close watch on the effectiveness of the new offences in the Amendment Ordinance in combating different kinds of unfair trade practices and we will study other issues relating to consumer rights at an appropriate time.

Deputy President, it has been a major task of the Commerce and Economic Development Bureau to promote fair business and enhance consumer protection. An effective consumer protection system can enable fair transactions to be carried out and put the minds of consumers and businesses at ease. It will not only serve to protect the rights of local consumers but will also make Hong Kong a more attractive place as a tourist destination and shoppers' paradise.

We will keep a close watch on the operation of the Amendment Ordinance and at the request of the Subcommittee, we will report to the relevant Panel on the implementation of the Amendment Ordinance at an appropriate time after it has come into force.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): We now proceed to the second debate session to debate the two items of subsidiary legislation under the Buildings Ordinance, that is, Building (Minor Works) (Amendment) Regulation 2013 and Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice.

Members who wish to speak on these two items of subsidiary legislation will please press the "Request to speak" button.

IR DR LO WAI-KWOK (in Cantonese): Deputy President, in my capacity as the Chairman of the Subcommittee on Building (Minor Works) (Amendment) Regulation 2013 and Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice, I would like to report to this Council the deliberations of the Subcommittee (the Subcommittee). The aim of the Building (Minor Works) (Amendment) Regulation 2013 and the Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice are respectively to introduce a Signboard Control System (SBCS) to control existing unauthorized signboards and to stipulate that the provisions on the SBCS shall come into operation on 2 September 2013.

Under the proposed SBCS, existing unauthorized signboards that fall within the relevant technical specifications can be validated and the continued use of these signboards will be allowed upon validation. In addition to the safety inspections required when the signboard is to be validated, all validated

signboards are proposed to be subject to a five-year safety inspection cycle. In order to enhance the safety of these signboards, some Members have asked whether the proposed interval of five years should be shortened to three years so as to increase the frequency of inspections of these signboards. The authorities have advised that the proposed interval of five years aims to strike a balance between tackling the safety problems arising from existing unauthorized signboards and avoiding bringing undue inconvenience to business operators. Moreover, if a validated signboard is situated at a building under the Mandatory Building Inspection Scheme, it must also undergo safety inspection as required by the scheme. If a validated signboard subsequently becomes dangerous during this five-year period, the Buildings Department (BD) may take enforcement action.

In addition, some Members have expressed the concern that some existing unauthorized signboards may have been fixed in places without the authorization of the property owner concerned, and they have asked what the authorities would do. The Administration has explained that the Buildings Ordinance (BO) aims to regulate buildings and associated works and ensure their safety; requiring the property owner's consent for the fixing of signboards in the common parts of a building is related to property right and building management issues and hence should be dealt with under the Building Management Ordinance. The BD will require the validation applicant to submit information about the Owners' Corporation (OC). The BD will take the initiative to notify the OC about the application. To address members' concern, the authorities will remind the validation applicant in the specified forms to pay attention to the relevant conditions in the Deed of Mutual Covenant of the building, to notify the property management company, the OC or the owners concerned, and to purchase third party liability insurance.

The Subcommittee has not proposed any amendment to the Building (Minor Works) (Amendment) Regulation 2013 and the Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice.

Deputy President, I so submit.

MR KWOK WAI-KEUNG (in Cantonese): Deputy President, the Government's inadequate control of signboards over the years has led to the presence of unauthorized signboards everywhere. Last year, based on a rough estimate, the

authorities said that there were 190 000 unauthorized signboards in Hong Kong. But based on a stricter estimate conducted recently, the number is reduced to 120 000 only. Although it is said that the number is only 120 000, we will certainly find one of these unauthorized signboards if we look around when walking in the streets.

The two items of subsidiary legislation tabled before this Council today have made reference to the specifications for small canopies and drying racks, and they seek to apply these specifications to the control of small signboards through the Minor Works Control System. Some people think that this approach is tantamount to legalizing unauthorized signboards. However, the Government says that most of the 100 000-odd unauthorized signboards are used by companies or commercial tenants, so after considering the business environment, the Government has decided to adopt the approach of control instead of banning. According to the Government, this is a compromise and the control of signboards on this occasion merely aims to ensure their structural safety. It is explained that the signboard owner is to appoint a minor works contractor or a professional to inspect the unauthorized signboard concerned, and the minor works contractor must submit a notification to the Building Authority. Moreover, inspections must be carried out every five years to ensure that the signboards are structurally safe. So, the Government is of the view that this approach can focus on the safety of signboards and also help reduce accidents arising from unsafe signboards.

But the impact of signboards is not limited to safety. We often receive complaints in the districts about light pollution from signboards. Some signboards are too large in size and too strong in lighting. Or, some signboards may emit light that goes directly into the flats of residents, thus affecting their daily life. Or, sometimes such signboards will be lit up until very late into the night, thus affecting people's quality of sleep. The Government is conducting a consultation on light pollution, so the authorities should bring the light pollution from signboards under regulation as soon as possible.

Another kind of complaints that we often receive is about commercial tenants hanging signboards in the common parts of the buildings without the permission of the property owner or the owners' corporation (OC) concerned. Besides blocking the views of residents and affecting ventilation, such signboards may sometimes impact building maintenance works. As we know, the supporting frame or rivets or steel wires of a signboard are often fixed to the

common parts of a building such as the external wall. As the rivets are nailed directly into the external wall, they will loosen the concrete if they become rusty. This will affect building structure. If the building is to undertake some major maintenance works, this kind of structures will affect the maintenance works and also building safety. Some commercial tenants may just vanish after their shops are closed down, leaving behind their signboards. The OC concerned has to bear the responsibility. I would think that since the Government has already taken the first step, there is no reason why it should stop short of proceeding further. Since it wants to control these signboards, why doesn't it do it thoroughly?

In the case of the new form, it is mentioned that only the address of the OC should be filled in. And there is a line written to the effect that if the signboard concerned is fixed to the external wall of a building or its common parts, the signboard owner should discuss with the OC or property management company or the owner concerned the purchase of third party liability insurance. It is true that the form has given a gentle reminder, but the question is: does the OC have any power to get the information or make arrangements to ensure that the information about third party liability insurance will definitely be delivered to it? If the hanging of a signboard does not require the permission of the OC, then the OC may end up spending years in pursuing insurance claim without any success. This is not to mention the fact that there are cases where signboards are fixed forcibly despite the unwillingness of OCs. If the requirements in the legislation can be more detailed and thorough, so that a signboard owner who wants to fix a signboard must consult the OC or owners' committee and get their permission, then I believe there will be better and greater protection for OCs or tenants.

The information which the Government requires signboard contractors to submit is very limited. The measure of requiring a contractor to submit the letter of consent from the owners' committee will not add to the workload of the Government, because all information is to be collected and submitted by the contractor along with the required form to the Government for registration. But to owners and owners' committees, this can greatly relieve their pressure.

Overall, the new control regime will help ensure the safety of signboards and it can also protect the safety of pedestrians. There will also be stronger supervision in respect of the registration system for owners of signboards, because all the information about signboard owners will be set out in black and white and should any accident happen, the persons liable can be traced.

However, there are still shortcomings. As I have just said, very often the OC and the owners' committee has to use the money of the building concerned to instigate a lawsuit asserting the ownership of the common parts of the building in order to prohibit the erection of signboards there. If legal proceedings must be instigated every time, the OC concerned will have to pay the fees first and in the end it may only recover the amount paid and no more. There can be no gains. Since the Government wants to exert its control of the signboards by law, can it do something to help OCs so that work in this respect can be done better?

Deputy President, lastly, although the Government emphasizes that this legislation does not aim to legalize unauthorized signboards, there is still such implication to a certain extent. Since the Government allows the continued existence of unauthorized signboards, there must be more protection in respect of light pollution or the powers of OCs and owners' committees as I have mentioned. That way, while signboards can continue to exist, the adverse impact on other stakeholders can be reduced.

I so submit. Thank you, Deputy President.

MR TONY TSE (in Cantonese): Deputy President, after at least 10 years of discussions on signboard safety, the deliberations on the subsidiary legislation on introducing a Signboard Control System (SBCS) are finally complete today. However, this does not mean that the long-standing problems of signboard safety and management can thus be fully and properly solved. This is because while the commencement of the legislation can temporarily relieve the safety problems arising from existing signboards posing immediate or substantial potential danger, there are still the problems posed by the numerous signboards which have been discarded or those unauthorized signboards that may emerge in the future. And, I am very concerned about what next steps the Government will take, how it is going to step up enforcement and when it will introduce a total ban.

I am not alone in suspecting that the Government's aim of introducing the SBCS is to legalize unauthorized signboards and grant an amnesty to irresponsible signboard owners. In the meetings of the Subcommittee on Building (Minor Works) (Amendment) Regulation 2013 and Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice, various

deputations also expressed the same query. Although the Government emphasizes that the SBCS has nothing to do with granting any amnesty to owners of unauthorized signboards, people will inevitably have such suspicion because the Government has all along refused to disclose how it will impose a total ban and a timeframe for banning unauthorized signboards.

On the issue of signboards, the Government gives people an impression that it is tolerant of offenders and does not want to punish them. But in the case of law-abiding citizens, the Government instead requires them to obey the law strictly. I am worried that this mentality and practice of the Government will encourage contraventions of the law, thus making fewer and fewer people willing to obey the law, directly affecting the effectiveness of the SBCS and in the end defeating the original intent of introducing the system. I therefore hope that the Government can really pay attention to this and make rectifications and improvements.

As I also said in the meetings of the Subcommittee, we can see signboards of varying sizes, colours and designs in the streets. When discussing signboards, apart from showing concern for their sizes and whether their installation can meet the required specifications and safety standards, we must also consider their light intensity, flashing frequency and hours of operation. All these are the essential parts of signboards. Therefore, when considering the introduction of the SBCS, the Government should not focus only on safety, but should consider and handle each and every aspect relating to signboards.

Therefore, regarding the present issue of signboard control, I think the Government should not have concentrated solely on dealing with safety issues, because it is not proper to do so. I hope the Government can learn from the experience this time around and avoid the same approach when dealing with other laws in the future.

All in all, I support the introduction of the SBCS and I am very glad that the Government has accepted the suggestions made by me and other members, agreeing to remind validation applicants in the validation notification form that they should note the relevant conditions in the Deed of Mutual Covenant, notify the property management company, OC or owners concerned and purchase third

party liability insurance. I hope all these measures can further enhance building and public safety related to signboards.

Deputy President, I so submit.

MR WU CHI-WAI (in Cantonese): Deputy President, the problem of signboard control has existed for a long time. Now, there is at long last a new law to formally regulate and deal with the problem. But it is unfortunate that the relevant approach depends too much on signboard registration as a means of putting signboard management back to the right track.

During the discussions in the Subcommittee, we heard the Government say that safety inspections of all the signboards in Hong Kong had been conducted, and there were around 120 000 signboards throughout the territory. It was also said that in the course of inspection, orders for the dismantling of signboards posing immediate danger had been made. But the next question I must ask is: does the Government have any records regarding the 120 000 signboards which have been inspected? Actually, the Government does not have any such records. What I mean is that the Government does not know the details, such as the owners of all the signboards along Nathan Road. There is neither any registration nor any record. So, even after the establishment of the Sign Board Control System (SBCS), if the Government wants to know all this information, it must still depend on those contractors and signboard owners who are willing to observe the relevant requirements to fill out the form. Let me give one example, the case of Nathan Road, to illustrate my point. When a new signboard is erected along Nathan Road, the owner should register it with the Government. But if the owner does not do so, the Government will not know. All must then depend on subsequent surprise inspections, during which signboards with no registration may be identified. What I mean is that since there is no information and no registration, the authorities simply will not know. Therefore, future inspections must remain very stringent.

So, I would suggest that before this law is to be enforced, the Government should do something about these known signboards which number 120 000. Since the first round of inspection has been conducted, the signboards should be registered for record purpose. In this way, we can check and confirm which

signboards have not been registered in the future, and follow-up actions can then be taken to ensure that all the signboards to be erected in the future and those signboards which have been erected before can be effectively managed under the SBCS.

Also, I certainly agree with Mr Tony TSE that the SBCS only imposes regulation on signboard safety without touching upon the associated problem of light pollution. Actually, this problem can be dealt with quite simply by including the relevant requirements in the code of practice. Signboard applicants and contractors must comply with certain specifications when they want to make a signboard. If the Government agrees to add certain requirements on light pollution, the problem can be put under control. In this way, at least all new signboards and signboards pending registration will comply with the required specifications and the problem of light pollution can thus be abated.

Lastly, the issue of signboards also involves property ownership. Most signboards are hung on the external wall of a building. I know what the Government means in this connection — since we are talking about the external wall of a building, the private property of a building, the whole question should boil down to the fact that if a signboard owner or contractor has done anything which infringes on the right of the owners of the premises concerned, then the owners of the said premises should seek to impose legal sanctions on them, and the contractor or signboard owner should be held responsible for any costs under the law. And, under the common law as we know it, they will certainly lose because they have infringed on private property interests. Because of this point, I propose the Government to print a clear warning on the relevant documents or leaflets and such a warning, rather than being so mild as it is presently worded, should be written in stronger wording, stating that according to precedent cases under the common law, the acts concerned are clearly infringements on others' rights and interests, and the persons responsible for such acts will most definitely lose in the lawsuit and must bear the legal costs. It is only in this way that an objective deterrent effect can be achieved to deter signboard owners and contractors from lightly doing anything which infringes on the collective ownership right of a building.

As a matter of fact, this has been the most controversial issue about signboards over the years. During the drafting of this legislation, we likewise

failed to see any truly effective ways to handle the issue. Mr Tony TSE or Ir Dr LO Wai-kwok have asked whether it is possible to require them to put up a signboard only after a letter of consent is obtained. After discussing for a long time, members think that this is too complicated. But I think that since it is an infringement of private property right and clearly a tort under the common law to install a signboard in a location where such installation is forbidden, the authorities can set out very clearly all the legal liabilities that must be faced and borne. I believe this can already sufficiently deter various stakeholders from handling regulations so haphazardly and carelessly as they did in the past.

Deputy President, there are still some problems related to the Amendment Regulation and we hope that they can be solved. However, we do understand that a one-thousand mile journey must start with the first step. We hope that the commencement of this legislation will mark the first step of signboard management, and in the future, we can impose effective control on all the unique signboards with such attractive colours and amazing variety in Hong Kong, so that while ensuring signboard safety, we can also retain this special feature of our society and strike a suitable balance between the two. 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): Members have already spoken in this session. I now call upon the Secretary for Development to speak. The debate on this motion will come to a close after the Secretary has spoken.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, first of all, I wish to thank Ir Dr LO Wai-kwok, Chairman of the Subcommittee on the subsidiary legislation relating to the Signboard Control System, as well as members of the Subcommittee, for the valuable advice offered by them. The Subcommittee has held three meetings and relevant deputations and trade representatives were invited to attend these meetings to express their views. Detailed discussions were held on the operation of the law. I am grateful to

Members for the views they have offered as well as the efforts they have made. I wish to thank those Members who have spoken earlier on the introduction of the Signboard Control System in the amendment legislation. I wish to give a brief response to the views Members have just expressed.

According to a preliminary estimate made by the Buildings Department (BD) during its recent move to count the number of illegal structures in Hong Kong, there are about 120 000 unauthorized signboards throughout the territory. This cannot be regarded as a small number at all. It is precisely because of the large number of unauthorized signboards and considering the fact that most of these unauthorized signboards are not dangerous, we hope that a pragmatic approach can be adopted to introduce a signboard control system. This system complements the enforcement action taken by the BD and enables the BD to exercise its regulation from different aspects while enhancing the safety of signboards.

Under the Signboard Control System, unauthorized signboards erected before 2 September 2013 and which meet the standard size required will be allowed for continued use after safety inspection, strengthening and certification by building professionals or registered contractors. In addition, signboard owners who have had their unauthorized signboards validated, should at intervals of not more than five years, either make a fresh validated submission for the signboards concerned or remove them. After the implementation of the Signboard Control System, the BD will continue to take enforcement action as appropriate on not validated unauthorized signboards or those with potential risk or are abandoned.

Mr KWOK Wai-keung and Mr WU Chi-wai have asked whether consent from the owner or owners' corporation (OC) concerned is necessary when erecting signboards on the external wall of a building. As Ir Dr LO Wai-kwok has just said, the Subcommittee has held in-depth discussion on this issue. It is found that when the consent from owners should be obtained when a signboard is to be erected on the external wall of a building, issues of ownership and building management will be involved. Unfortunately, these are not included in the legislative intent of the Buildings Ordinance. Under the Building Management Ordinance, owners have a responsibility to provide proper management of the common parts of a building in civil law and the Deed of Mutual Covenant (DMC) defines the rights of the title holders as well as their benefits and responsibilities.

The DMC is to be executed by the signatory parties and the Government is not one of such parties. If anyone intends to build or hang a signboard in the external wall, he must check the relevant land lease and DMC carefully to ensure that the relevant provisions are not contravened. Any queries or disputes should be solved based on the Building Management Ordinance, the DMC concerned and other legal instruments.

Mr WU Chi-wai asked earlier whether a warning can be printed on the prescribed forms to remind contractors that if they do not obtain the consent from the owner or OC, they may encroach on private property and they should be aware of their liability. We will consider this suggestion and my colleagues will follow this up.

With respect to erecting signboards in the common parts of a building, the BD has now adopted a number of administrative arrangements to remind the relevant building professionals that they should obtain the consent of the owner beforehand and that the owners of the entire building and the OC concerned should also be informed. This will enable them to follow the relevant matters up with the person who wishes to build a signboard. Under the Signboard Control System, if the building concerned has an OC, the BD will require persons conducting the validation of the signboard concerned to submit information on the OC and take the initiative to inform the OC about the application for validating the signboard. In response to the concern expressed by members, as I have said, the BD will remind applicants for signboard validation in the application form that they must pay attention to the conditions in the DMC of the building concerned and they should inform the relevant property management company, OC or owners. In addition, the BD will add a footnote to the application form to remind applicants that they should purchase third party insurance.

Deputy President, the Subcommittee has also discussed the validation cycle under the Signboard Control System. The signboard owner is required to submit a new validation application or remove the signboard concerned during the five-year period after the signboard has been validated. In this five-year period, the signboard owner has the obligation to maintain his signboard properly. The proposed five-year cycle is aimed at striking a balance between solving the building safety problems caused by unauthorized signboards and avoiding too much inconvenience brought to the traders.

If the validated signboards are located in a building which has joined the Mandatory Building Inspection Scheme (MBIS), these signboards must be inspected every five years under the Signboard Control System and they should undergo safety checks under the MBIS. Under the MBIS, private buildings aged 30 years or more are to undergo a safety inspection of its common parts, external wall, protruding objects and signboards every 10 years. The scope of inspection under this scheme covers not only the approved parts of the building concerned but also minor works, such as signboards, which are unauthorized and subsequently added but have been validated under the validation system. The MBIS adds another inspection besides that under the Signboard Control System.

In addition, if a potential risk has developed in a validated signboard due to changes in subsequent circumstances or a lack of maintenance, the BD can take swift enforcement action under the Public Health and Municipal Services Ordinance and order the signboard owner to remove the signboard or undertake rectification works to render it safe again.

Mr Tony TSE has asked earlier whether any amnesty is granted to owners of these unauthorized signboards under our control system. Deputy President, I can say that no amnesty will be granted under any circumstances. This is because for these validated signboards, since no application has been made to the Building Authority prior to their being erected, they are still considered unauthorized works after validation. But as no safety problem is involved and as they meet the standards in design and construction, the Building Authority will not take any legal action for the time being against these unauthorized signboards.

Mr Tony TSE and Mr WU Chi-wai have both mentioned the intensity of lighting in the light box of these signboards, their flickering frequency and the time they are switched on and switched off. In this connection, Deputy President, as the problem of light pollution is not subject to the regulation of the Buildings Ordinance, the problems concerned cannot be considered under the Signboard Control System. But for the impact of such installations, external lighting and video advertisements on residents in the neighbourhood, the Environment Bureau issued the *Guidelines on Industry Best Practices for External Lighting Installations* in January 2012. Apart from this reference material, the BD will remind the trades to refer to the guidelines when it revises its Practice Notes in the future.

Deputy President, unauthorized signboards are a problem which has existed in Hong Kong for a long time. The Signboard Control System will not only further enhance the safety of signboards, but also help the BD build a database on signboards in the long run and enable it to keep more information about unauthorized signboards, including their owners, locations and dimensions. In this way, the BD can regulate unauthorized signboards more effectively and improve its enforcement action against them. The BD will launch a number of enforcement plans in line with the Signboard Control System in the hope that the safety problems associated with unauthorized signboards can be solved.

(THE PRESIDENT resumed the Chair)

Mr WU Chi-wai has asked earlier whether it is possible to record information of these 120 000 signboards in Hong Kong before the Ordinance comes into force. We would think that at this moment, it may not be the most cost-effective move to take. During the past few years, that is, from 2006 to 2012, the BD issued a total of 11 000 notices to remove dangerous structures, and it removed about 20 000 abandoned or dangerous signboards. There are about 530 professional and technical staff in the Mandatory Building Inspection Division and the Buildings Division in the BD. There are 19 professional and technical staff in the Signboard Control Section and one of their duties is to take enforcement action against dangerous or abandoned signboards or unauthorized signboards. This kind of work is part of the work done by the BD in building safety and maintenance enforcement. If we undertake a registration of all the 120 000 signboards in Hong Kong before the implementation of this scheme, and most of these signboards do not have any imminent risk, I am afraid it is not an appropriate step to take at this moment considering the workload and the priorities in resource allocation involved.

In order that signboard owners, the trades and members of the public can know more about the details of the Signboard Control System, the BD has compiled relevant pamphlets, practice notes and technical guidelines and a series of public education and publicity programmes will be launched before the System comes into operation, that is, on 2 September 2013. After the System has been in force, the BD will review the details of the System when appropriate and will refer to views expressed by Members in the Subcommittee and in today's meeting in order to improve the scheme.

With measures devised by the BD on signboards, plus the co-operation from signboard owners, the trades and members of the public, we are confident that problems of building safety relating to signboards can be solved gradually. President, I so submit.

PRESIDENT (in Cantonese): In accordance with Rule 49E(9) of the Rules of Procedure, I will not put any question on the motion.

PRESIDENT (in Cantonese): The second and the third Members' motions. These are two motion debates 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 to a motion 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): Second Members' motion: Dissolving the Hospital Authority.

Members who wish to speak in the motion debate will please press the "Request to speak" button.

I now call upon Dr LEUNG Ka-lau to speak and move the motion.

DISSOLVING THE HOSPITAL AUTHORITY

DR LEUNG KA-LAU (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. Two years ago, I moved a motion on reforming the Hospital Authority (HA). There were totally five amendments at that time, and many colleagues called on the HA to increase resources and manpower. No division was claimed when these amendments were put to vote, and all of them were passed, so Members were very pleased. However, after the passage of two years, have Members changed their perception of the services provided by the HA?

I have intentionally used the word "dissolving" as the theme this time around, because I wish to see if colleagues have any good ideas or strategies which can rectify the structural defect of the HA.

It looks like long waiting time and manpower shortage have become synonyms for public hospitals. There have been constant calls from the public for the Government to increase resources and the number of medical officers. However, what should be the reasonable levels of resource and manpower increase? A sensible person will examine how the HA's funding, manpower, service throughput and service waiting time have been related to each other.

As far as I can observe, the main reason for the overly long waiting time is an uneven allocation of resources rather than manpower shortage. There is a paper on Members' desks in which a number of figures are set out in several tables.

First, despite the HA's frequent talks about serious manpower shortage and wastage, its establishment of medical officers has nonetheless seen annual increases throughout the past decade or so, with recruitment exceeding wastage all the time. And, the growth in the number of medical officers has been greater than the increase in service throughput. For instance, the number of medical officers in the HA increased by 14.1%, from 4 526 in 2004-2005 to 5 165 in 2011-2012. During the same period, the specialist out-patient attendances increased by 12.1%, from 6 million to 6.7 million. As regards in-patient service, one of the HA's major services, the total number of bed days increased by a mere 4%, from about 5.2 million in 2004-2005 to 5.49 million in 2011-2012.

Second, please refer to Table 2 in the paper. We can see that increase in manpower actually exceeds service throughput, but why do problems still exist? If we look at the waiting time for new cases at the HA's specialist out-patient clinics, we will find that the lengths of waiting actually varies greatly among the seven clusters of the HA. For instance, the waiting time for orthopedic patients in Kowloon East is 107 weeks, compared with only 15 weeks in Hong Kong West; the waiting time for surgical patients in Kowloon East is 91 weeks, compared with only 19 weeks in Kowloon Central.

Third, why are the variations of waiting time so great? The reason is that the amount of resources received by different clusters and their manpower vary very greatly, and this has a bearing on waiting time. For instance, Kowloon East receives the smallest amount of resources, with only $3.95 million for every 1 000 people a year. Kowloon Central, however, receives more than $10 million for every 1 000 people a year. The funding difference between these two clusters amounts to 250%.

Fourth, why is there no rectification despite the huge funding differences? Please refer to Table 4 in the paper on the ratios of funding distributed by the HA to different clusters over the past few years. Members can see that despite the constant increase in funding allocated by the Government to the HA over the past years, the ratios of funding allocated to different clusters have not shown any noticeable changes. For instance, the population served by the Kowloon East Cluster is 14% of the territory's total population, but it has received only 10% of funding over the years. In contrast, the population served by the Kowloon Central Cluster is only 7% of the territory's total population, but it has received 14% of funding.

This can show that regardless of any resource and manpower increase by the Government, if the HA's allocation method remains unchanged, the waiting time problem in those clusters or departments with limited resources can never see any changes. Public evaluation of HA services is generally based on their perception of places providing the worst services (that is, the clusters with the longest waiting time). This explains why the targets of complaints are always Kwun Tong in Kowloon East, Tuen Mun in New Territories West and the Prince of Wales Hospital in New Territories East, which has recently become another worst-hit area.

Regrettably, however, overly long waiting time has instead exerted public pressure on the Government, forcing it to keep increasing resources and manpower for the HA. As a result, the HA has come to be rewarded for its unsatisfactory governance. The HA therefore has no incentives to change the situation.

In the past two years, when the HA and the Government heard the data presented by me, they would put up some excuses to rationalize the uneven distribution of resources. The main argument is that some clusters providing particular specialist services must treat many cross-cluster patients, as in the case

of the Queen Mary Hospital, which performs liver transplants. But as our computation shows, the Queen Mary Hospital at most only needs several dozen million dollars for its liver transplants every year — assuming that the treatment of each patient requires $1 million. I believe such expenditure represents only less than 5% of the total resources received by the Queen Mary Hospital. That being the case, why should the cluster concerned receive an amount of resources which doubles those of others simply because of these liver transplant operations?

On cross-district patients in various clusters, I have obtained some statistics from the Government. Now, let us refer to Table 5. The Kowloon Central Cluster has indeed been assisting other clusters, mainly the Kowloon West Cluster, in treating patients. In fact, the Kowloon Central Cluster has been treating more patients from the Kowloon West Cluster than from its own catchment area. Meanwhile, the Hong Kong West Cluster assists mainly in treating patients from the Hong Kong East Cluster. Owing to the lack of assistance offered by other clusters, the Kowloon East Cluster, the New Territories West Cluster and the New Territories East Cluster are just like "orphans", which means that the service waiting times there are always very long.

It appears that measures of optimizing the waiting list management of specialist out-patient clinics put forward by the Chief Executive several months ago are meant to transfer patients from clusters with a longer waiting time to those with a shorter waiting time. But this precisely reflects the Government's problematic approach of "treating the symptoms only". It is because the waiting time for new cases is just one of the many examples. In fact, after initial treatment, new patients must wait for follow-up consultations, check-ups and even operations. The new cases in waiting represent only a small ratio, or probably less than 3%, of the services provided by the HA. As new cases accounts for less than 10% of the total attendances at specialist out-patient clinics, it is not too difficult for the HA to handle the waiting time for new cases.

Also, why can't cross-cluster patient transfers help solve the problem? It is because such transfers are not backed up by resource allocation efforts of the HA. What I mean is that the shorter waiting time in some clusters is actually attributable to their relatively abundant resources, but they always think that the shorter waiting time is due to their work efficiency. When more patients are reallocated to them by the HA, they will think that they are being penalized and will soon find various ways to lengthen the waiting time with a view to deterring patients. They will lose nothing because, as the saying goes, "work or not, you

get the same pay". They will continue to receive the same amount of funding anyway.

Well then, how can we solve the problem of uneven allocation of funding? We can have many options, but before we make our choice, we should not forget the HA's past contributions because it has made many contributions to healthcare service quality. Nevertheless, we must look forward. I am just pinpointing the mechanism, not any individual or particular organization. Should the HA be reformed or dissolved? It all depends on Members' perception of the HA. There are several points I would like to raise. First, the HA is not the only arrangement for public-sector healthcare. The arrangement I am referring to is the provision of all public-sector healthcare services by one single organization. The problem lies in the fact that the HA is both the buyer and the vendor. Hence, it will consider its own interests in the provision of services, not necessarily putting patients' interests first. As I pointed out just now, long waiting time is good because people will then help it fight for resources and funding. So, what is the point of addressing this problem? On the contrary, its resources will be cut after the problem is resolved.

Second, the structure of the HA is actually rather obese. It has more than 60 000 staff members, more than 40 hospitals and more than 200 clinical departments. As the saying goes, "where the mountain is high, the emperor is far away". The policies of the headquarters may not be obeyed all the way down the hierarchy, and it is also very difficult to monitor the various departments' execution of policies. The expenditure of the HA headquarters is actually quite high, too. I have made a comparison with the Education Commission (EC) in Table 6. As the EC is only responsible for distributing resources with no need for operation, the expenditure of the EC is proportionally much smaller. Furthermore, Members must bear in mind that, even if the headquarters of the HA are dissolved, each cluster still has an enormous administrative structure. At present, the administrative structure is divided into three tiers, with hospitals, clusters and the headquarters each having their own Chief Executives. Therefore, I propose that the Government may directly procure services from various clusters or healthcare organizations based on the population in each district and the trends of patient needs. This is actually a common practice in the international community. It is because under this "money follows patient" arrangement, various organizations will compete with one another, and good performers can strive for more patients as well as funding. Another merit of this arrangement is that, if the services are directly procured by the Government, our

participation will be enhanced because the services will come under the direct supervision of the Legislative Council.

What are the disadvantages of dissolving the HA? I still have some feelings towards the HA, and I believe the Secretary has even stronger feelings towards it, and he might hate to let it go. As I am the only person who has spoken for the time being, I wish to reserve some more time for giving my response after listening to the views expressed by the Secretary and other Members.

President, I so submit.

Dr LEUNG Ka-lau moved the following motion: (Translation)

"That the Hospital Authority ("HA") was established in 1990 with the aim of effectively utilizing resources to establish and manage public hospitals and improve healthcare service quality; however, HA is both the buyer and the vendor of healthcare services with a conflict of roles, which on the one hand procures the relevant services for the public and on the other hand must take care of its own interests as the service provider, thus resulting in its inability to allocate resources in full accordance with patient needs; although the Government has kept increasing funding for HA, HA's uneven allocation has rendered the resources for some of its clusters or departments insufficient for a long time and the problem of varying service quality unresolved, thus giving rise to public pressure of demanding the Government to keep increasing funding, with HA being rewarded for its misgovernance instead; in this connection, this Council urges the Government to dissolve HA, and under the principle of 'money follows patient' and in accordance with the population size of and number of patients in various districts, directly purchase services from public and private healthcare organizations, and allow patients to choose hospitals for treatment, with resource utilization and allocation put under the monitoring by the Legislative Council, so as to respond to patient needs."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr LEUNG Ka-lau be passed.

PRESIDENT (in Cantonese): Two Members wish to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will call upon Dr Fernando CHEUNG and Mr Albert HO to speak, but they may not move amendments at this stage.

It is now 9.30 pm. After the two Members who propose the amendments have spoken, I will call upon the Secretary for Food and Health to speak and then suspend the meeting until tomorrow morning for this motion debate to be continued.

DR FERNANDO CHEUNG (in Cantonese): I would like to thank Dr LEUNG Ka-lau for proposing the motion on "Dissolving the Hospital Authority".

This motion is very interesting. Of course, Dr LEUNG Ka-lau is a very serious Member, too. It appears to me that dissolving the Hospital Authority (HA) is a quite extreme move. Should it be dissolved or, as suggested by Dr LEUNG Ka-lau, reformed? Honestly, I have a bit of a struggle over this issue.

In my opinion, in respect of prescribing standards for healthcare service quality, and monitoring the provision of services to ensure uniform service standards for all hospitals across the territory, the role and function of the HA is indispensable. Without the HA, I am afraid that healthcare service quality will fall greatly behind public expectations due to the disparity in wealth among different districts or the quality of hospital management. I do not think that such a situation is acceptable.

The HA is a "mammoth organization" and, as pointed out by Dr LEUNG, it has up to 60 000 staff members. The HA is probably the government organization in Hong Kong employing the largest number of directorate staff. I believe the number of employees receiving a remuneration of more than $2 million per annum may be as large as 600. Should we review or examine the past performance of this mammoth organization called the HA? Or, should we dissolve it altogether?

Let us review the HA's performance first. When it was initially set up, the HA succeeded in upgrading the healthcare service quality of many hospitals and assisting them in getting rid of bad habits. For instance, decades ago, people

must give red packets to hospital staff and must even treat cleaning workers with a bit of deference. Today, we need not worry about the occurrence of such situations. In my opinion, the HA deserves commendation for its efforts to enable us to have quality healthcare services at low fees. Nevertheless, because of previous economic fluctuations and the lack of substantial growth in the resources injected by the Government into healthcare services, problems with healthcare service quality have indeed developed.

Of course, as rightly analysed by Dr LEUNG Ka-lau just now, this situation may not have anything to do with manpower problems. Rather, it looks like a kind of regionalism has emerged, thus causing an uneven distribution of resources among different HA clusters which in turn leads to huge differences in the service waiting times and healthcare service quality in different districts. I strongly agree to Dr LEUNG's analysis.

Furthermore, there are other problems. The situation with primary healthcare services can be described as disastrous. Let me cite general out-patient services as an example. After the HA's introduction of a telephone booking system, many elderly persons and patients relying on public out-patient services can hardly make any advanced bookings for healthcare services. What is more, even the queuing system has been cancelled. Of course, this is all because Donald TSANG was bombarded for doing nothing to help those elderly persons who must get up in the middle of the night in order to queue up for healthcare services. Displeased, he cancelled the queuing system altogether. What is more, the waiting time for specialist out-patient services is indeed getting increasing long, and consultation sessions are getting increasingly short.

Is it possible for the HA to keep charges low? After the introduction of the HA Drug Formulary (the Drug Formulary), many types of drugs have been classified as self-financed drugs. If Members read the charity page of *Apple Daily* today, they will find the plea for donations from a mother who wants to buy targeted drugs to treat her lung cancer. However, the amount of donations collected can only enable her to buy enough quantities for three months' use. Cases like this can be found in the newspapers we read every day. All of us ask the same question: Hong Kong is an affluent international city, but why do patients still need to plead for donations every day to finance their drug purchases?

In Hong Kong, the waiting time for primary healthcare services ranges from three to four years. Patients waiting for minor surgeries fear that their long wait may "turn a minor ailment into a serious disease, and a serious disease into a fatal disease". This has in fact become a byword of many people these days. Furthermore, the current waiting time at accident and emergency (A&E) departments generally ranges from five to six hours. A survey conducted by one organization this year shows that more than half of the people waiting for A&E services at, for instance, the Prince of Wales Hospital must wait more than five hours. Moreover, medical blunders have also been increasing in number, with last year's figure showing an increase of 30% over the figure recorded the year before last. Since the establishment of the HA some two decades ago, the Government has never conducted any thorough review or reform of the relevant legislation and the HA's overall governance.

Another cause of criticism is the situation of "fattening the top and thinning the bottom" in the HA. Prior to 2006, the HA would even hand out bonuses. When the entire city was on guard and the economy was experiencing a serious downturn during the SARS outbreak, the HA still granted bonus to its top management, thus causing huge public outcries.

Although the arrangement of granting bonuses was subsequently cancelled, the HA's senior staff were still offered very attractive pay increases. In 2010, for instance, the HA's front-line staff had to face a pay cut of 5.38% in line with the pay adjustment for civil servants at that time. However, the remuneration of the HA's five top-paid executives — each with an annual remuneration as high as $21.03 million — was even increased substantially by 11% over the previous year. While other staff members had to accept a pay cut, they were offered a pay rise, and their pay increases were even three to four times higher than those for low-ranking employees. In view of its practice of "fattening the top and thinning the bottom", there were queries from members of the public as to whether the HA was an independent kingdom.

As all HA Board members are appointed by the Government, the HA has a very low transparency and participation by patient groups. Members probably know that HA Board members may travel on business class when they are required to travel overseas by plane for conferences. Things like this are very absurd.

In my opinion, the participation of patient groups is extremely crucial. And, democratization of the governance of the HA is equally important. In the case of Drug Formulary reviews or the review mechanism, for instance, the Government has all along rejected the participation of patient groups. When the Secretary appeared before this Council on 23 May this year for the motion debate on the Drug Formulary, he even said that those with vested interests had to be excluded from the review mechanism of the Drug Formulary, and "those with vested interests" even included patients and patient groups. Furthermore, the Secretary mentioned that it would not be too good if representatives of patient groups in attendance burst into tears when speaking during the meetings.

I really cannot understand why the Secretary should have treated patients as "those with vested interests", thus excluding them from the review mechanism of the Drug Formulary. In fact, medical practitioners are those with the greatest vested interests. I do not know how much benefit pharmaceutical firms have funnelled to medical practitioners. But why doesn't the Secretary exclude medical practitioners from the review mechanism of the Drug Formulary? It is impossible to do without the participation of patient groups because their participation is allowed all over the world.

Generally speaking, I think that the broad direction today should be to make the HA fully transparent and allow the participation of patient groups. I do not hope to see the dissolution of the HA and the implementation of the principle of "money follows patient" because after all, it is the Government's responsibility to provide healthcare services. As there is no need to dissolve the HA at this stage, I hope that it can be reformed in the meantime.

Thank you, President.

MR ALBERT HO (in Cantonese): President, I have put forward in my amendment a number of proposed reforms for the Hospital Authority (HA), the contents of which are actually similar in many respects to the motion proposed by Dr LEUNG Ka-lau two years ago. I hope that two years later, I need not propose another motion to dissolve the HA, like this one proposed by Dr LEUNG Ka-lau today. Hence, I earnestly hope that the Secretary can really respond to Members' aspirations to reforming and improving the HA. Of course, after saying so, I must add that we do recognize the importance of healthcare services to Hong Kong, and we also affirm the valuable contributions made by public

hospitals and medical practitioners to the health of Hong Kong people. Today, however, what we are discussing is the HA's overall administrative structure, and our aim is to see whether there are many places warranting our attention. These issues are equally important, too.

In my first reform proposal, I urge the Government "to increase HA's representativeness, transparency and accountability, including appointing more elected public opinion representatives to HA and the Hospital Governing Committees of district hospitals to improve governance, and to clarify the powers and duties of Hospital Governing Committees to enable them to fulfil the governance function". We all know that the HA is an enormous organization employing many staff members and incurring very heavy expenditure every year. However, it is subject to very limited supervision. It is only indirectly supervised by the Legislative Council, and every time, we approve the funding for it in one lump sum. But when we have any queries about the many policies of the HA, we can only put questions here, and there is no means through which we can powerfully request the HA to respond to the needs of society.

We can observe that there are no public opinion representatives in Hospital Governing Committees (HGCs). The point which I am most unhappy about is that many HGCs refuse to appoint elected District Council members — or at least this is so in some districts — to assist in the monitoring of hospital services. Why? As everyone knows, the HA is the provider of healthcare services. Actually, we can see that the Housing Authority is a provider of housing, but its transparency is much higher. At least, the general meetings of the Housing Authority are open to public observation and media coverage. Can the HA make reference to such practices, so as to enhance its transparency and accountability?

In my second reform proposal, we ask the Government "to make public HA's existing manpower establishment and planning, and streamline its administrative structure and review its remuneration and employment systems, so as to make reasonable use of public money and avoid the occurrence of the situation of 'fattening the top and thinning the bottom'". I must emphasize, as also mentioned by Dr LEUNG Ka-lau just now, that a lot of statistics have revealed that the HA has indeed given people an impression of "fattening the top and thinning the bottom". We can also see from one of the tables mentioned by Dr LEUNG just now that the increase in the HA's administrative costs in the past several years was far higher than the growth in the needs for its services. If we look at manpower, we will see that the HA's overall manpower increased by 4.5%

from 61 000 to 63 900 during the period between 2011 and 2013, and such an increase was far lower than the 14% increase of executive staff at its headquarters. This will give people the impression that while its headquarters have been expanded, its manpower at district or front-line levels has not been developed correspondingly. Second, in the past two financial years, the remunerations for the professional and executive personnel of the HA headquarters stood at $670 million to $830 million respectively, representing an increase of 25%, but the total remunerations for the HA's overall manpower increased by a mere 10% from $30 billion to $33 billion. Hence, people all have the impression that the pay increase rate for top management in the headquarters is too high.

We have made repeated appeals in the Panel on Health Services, asking for clearer information on the establishment of the HA, so that we can understand the HA's pay structure, its entire set-up and establishment, and the manpower ratios deployed to provide similar services in different hospitals, with a view to setting an attainable service indicator in the future. But, so far, no information on the establishment has been made public. Hence, we hope that such information about the HA's manpower establishment and financial allocation can be recorded as clearly as the information related to the Government's structure.

The third proposed reform is "to formulate a fair and reasonable funding system, and allocate funding to respective districts and hospitals in accordance with the population sizes of and numbers of patients and types of diseases in various districts". As Members already know, there is one point we do not entirely understand. The delineation of clusters is meant to dovetail with the allocation of financial resources, but it is very clear that the funding allocated to individual clusters is not proportional to population sizes, with some clusters receiving disproportionately high funding. Let me cite an example, the ratio of hospital beds to population. While Hong Kong West, which serves 530 000 people, is allocated with $3.65 billion, New Territories West, where the population is more than double, is given only $3.98 billion, which is only a little bit higher. In the New Territories West Cluster, there are 1.9 general hospital beds per 1 000 people, but in the Hong Kong West Cluster, there are 5.4 hospital beds per 1 000 people. I know that the HA definitely has its explanation. But putting aside any special reasons, can the HA really attain a basically equal level of per capita healthcare funding as a form of care in every cluster? Can the HA really achieve this objective if the adjustment factors given in its explanation are excluded? Although we have taken its explanation into consideration, many of us still consider that the HA has failed to do so.

As mentioned by the two Members just now, the wider community generally thinks that the relationship among all clusters is marked by structural superfluity, with "regionalism" cutting through the whole hierarchy down from the headquarters to clusters and to district hospitals. And, in every resource allocation exercise, there are inevitably fierce struggles among the various "regional forces". Those clusters that are "stronger" and more influential will receive more resources. Is that correct? I think that in the absence of sufficient transparency, the wider community is bound to think that way. Once the wider community perceives any unfairness, the credibility of the entire HA will be called into question.

Our proposed fourth reform is "on the premise of protecting patients' well-being, to study whether it is necessary to retain or reform the cluster system". Let me cite the demographic structure as an example. In Sai Kung, 35.6% of the population is comparatively young, at the child-bearing age of between 25 and 44, and the young population in Yau Tsim Mong is relatively high, too. In contrast, the percentage of young people in Kwun Tong is only 29.6%, but obstetrics services are provided in the United Christian Hospital. As a result, expectant mothers in Tseung Kwan O have to deliver their babies in the United Christian Hospital. Many people will thus wonder why all these women must be made to travel such a long distance. Of course, I know that the HA will have its explanation, such as its failure to recruit medical practitioners, and so on, but people do have the impression that the services provided by many clusters are uneven.

We can already tell this from the waiting time alone. Just now, a Member mentioned that the situation in Kowloon East is the most miserable, with patients having to wait 107 weeks, or more than two years, for orthopaedic service and 91 weeks for surgical service. In New Territories East, the waiting time is 73 weeks for ophthalmic service, and 90 weeks for orthopaedic and traumatology service. The same goes to New Territories West, where the waiting time for traumatology service is 63 weeks. However, the waiting time in some hospitals is much shorter. Hence, the cluster system has already resulted in unfairness. Is it possible for arrangements to be made to enable the services provided by various hospitals to complement one another, so that the waiting time for patients in certain places can be cut since the waiting time in some other places is much shorter? If we see that the present situation is already unfair, is the cluster system still worthwhile?

This explain why our last proposed reform is "to expeditiously establish an HA review committee to comprehensively review HA's functions, and appoint non-HA members and persons who are not officials of the Department of Health as committee members". In this way, more experts can get together to examine if the HA needs to be reformed and whether it can be rectified. If it will still be futile no matter what changes are made, as Dr LEUNG La-lau said, and if the retention of the HA will only create more obstacles *(The buzzer sounded)* …… the HA might probably need to be abolished.

PRESIDENT (in Cantonese): Mr HO, speaking time is up.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I will now deliver the first part of my speech regarding the motion "Dissolving the Hospital Authority" proposed by Dr LEUNG Ka-lau, as well as the amendments proposed by Dr Fernando CHEUNG and Mr Albert HO respectively. In this part of my speech, I will briefly introduce the important role played by the Hospital Authority (HA) in Hong Kong's healthcare system. After hearing the speeches of Members later or tomorrow, I will then respond to the suggestions made by Members in my concluding speech.

In the early years, Hong Kong's public healthcare system was not well-established, the quality of services varied, and the hospital environment crowded, so many people could not receive the healthcare services they needed. In 1985, the Hong Kong Government commissioned a consultancy study on the future development of public healthcare services. In the study report, the consultant recommended the establishment of a statutory body outside the civil service establishment to help enhance the efficiency and effectiveness of hospital services. As the consultant's recommendations were widely supported by persons in the community, the HA was established by the Government in December 1990 under the Hospital Authority Ordinance to provide public hospital services for Hong Kong people.

The HA is a statutory body providing public hospital and related services to the citizens of Hong Kong. At present, it offers medical treatment and rehabilitation services to patients through hospitals, specialist clinics, general out-patient clinics and community outreach services that are organized into seven clusters which together serve the whole of Hong Kong. Its major functions

include: (a) managing all public hospitals in Hong Kong; (b) advising the Government of the needs of the public for hospital services and of the resources required to meet those needs; (c) managing and developing the public hospital system; (d) planning and establishing public hospitals; and (e) promoting, assisting and taking part in the education and training of persons involved in hospital and related services.

As Hong Kong's major healthcare provider, the HA manages 41 public hospitals/institutions supplying a total of over 27 000 beds, 47 specialist out-patient clinics and 73 general out-patient clinics. Currently, about 90% of the in-patient services, and about 30% of primary healthcare services are provided by the HA.

Since its establishment in 1991, the HA has been making continuous efforts to improve the quality of care and the efficiency of public healthcare services, while ensuring that no one would be denied healthcare service because of lack of means. The HA plays an important role in Hong Kong's twin-track system of public and private healthcare. It not only sets the standards for Hong Kong's healthcare services, but also works closely with local universities in the training of doctors, nurses and allied health professionals who are essential for the provision of quality healthcare services.

In addition to the provision of high-quality healthcare services, the HA also plays a pivotal role in providing emergency relief, preventing and controlling outbreaks of epidemic diseases, enhancing disaster response capabilities and co-ordinating emergency rescue operations.

With an operating cost of just some 2.4% of Hong Kong's Gross Domestic Product, the HA has built a quality public healthcare system comparable to international standards that caters for some 90% of local secondary and tertiary healthcare service needs. Its achievements have gained worldwide recognition.

Of course, we understand that the HA, with its establishment for over 20 years, is now facing many challenges such as the trend of ageing population in Hong Kong society, changing service demands brought by the changing demographic structure, increasing incidence of chronic diseases, service demands from cross-boundary patients, inadequate supply of local healthcare manpower, patients' rising expectations for healthcare services, advances in healthcare technology, and so on. All these have direct bearings on the HA's planning for

service provision and use of resources. To cope with the challenges arising from these changes, the Chief Executive has already stated clearly that the Government will review the HA's operation to ensure the sustainable provision of high-quality and highly efficient healthcare services.

Healthcare and hygiene are closely related to people's livelihood. Although the quality of Hong Kong's public healthcare services is world-acclaimed, there is still a need to seek improvements as we face the challenges I just mentioned.

President, I will listen to Members' speeches on the motion as well as the amendments with an open mind. I so submit. After listening to Members' views, I will give a consolidated response tomorrow. Thank you, President.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now declare the meeting suspended until 9.00 am sharp tomorrow.

Suspended accordingly at two minutes to Ten o'clock.

Annex I

Trust Law (Amendment) Bill 2013

Committee Stage

Amendments moved by the Secretary for Financial Services and the Treasury

Clause	Amendment Proposed
1(2)	By deleting everything after "on" and substituting "1 December 2013".
27	In the proposed section 41M(1)(b), in the Chinese text, by deleting "致使該等受託人行使其干預權力屬適當" and substituting "令到該等受託人適宜考慮是否有需要行使其干預權力".
27	In the proposed section 41N(1)(b), in the Chinese text, by deleting "致使該等受託人行使其干預權力屬適當" and substituting "令到該等受託人適宜考慮是否有需要行使其干預權力".
27	In the proposed section 41Y(1)(b), by deleting everything after "of the trust" and substituting— "is— (i) an individual who ordinarily resides in Hong Kong; (ii) a body corporate incorporated or established in Hong Kong; or (iii) a body corporate incorporated or established outside Hong Kong and the central management and control of which is in Hong Kong.".
36	(a) By renumbering the clause as clause 36(1).

(b) By adding—

"(2) Section 77(2)(f)—

Repeal

"investments or".".

New By adding—

"36A. Section 80 amended (deposit to be held as security)

(1) Section 80(1)—

Repeal

"the investments or the sum of money deposited under section 77 shall"

Substitute

", the sum of money deposited under section 77 must".

(2) Section 80—

Repeal subsection (2)

Substitute

"(2) If at any time, the Registrar of Companies is of opinion that a trust company should furnish additional security because of the company's increase of its gross liabilities, the Registrar may order the company to make, within a period specified in the order, a further deposit of a sum of money (as contemplated by section 77(2)(e)) of a specified amount with the Director of Accounting Services.

(2A) The company may appeal against the order to the Chief Executive in Council, whose decision is final.".

(3) Section 80—

Repeal subsection (3)

Substitute

"(3) If a trust company has deposited a sum of money with an authorized institution or a finance company under section 77(2)(e), the trust company may, with the approval of the Director of Accounting Services and subject to the terms that the Director may specify, withdraw the sum and deposit it with another authorized institution or finance company referred to in that section.".

(4) Section 80—

Repeal subsection (4)

Substitute

"(4) All money accruing by way of interest in respect of sums deposited with an authorized institution or a finance company under this Part must be paid to the trust company which made the deposit.".".

40 In the proposed Third Schedule, in section 1(b), by deleting ", 6".

Annex II

Pesticides (Amendment) Bill 2013

Committee Stage

Amendments moved by the Secretary for Food and Health

Clause	Amendment Proposed
Long title	By deleting "routine".
3	By adding— "(6A) Section 2(1), Chinese text, definition of ~~署長~~— **Repeal the full stop** **Substitute a semicolon.**".
3(8)	By adding in alphabetical order to the proposed definitions— "***authorized officer*** (獲授權人員) means a public officer appointed to be an authorized officer under section 14; ***function*** (職能) includes duty;".
5	By deleting the proposed section 3A and substituting— "**3A. Ordinance applies to Government etc.** (1) This Ordinance applies to the Government. (2) Despite subsection (1), the Government— (a) is not liable to be prosecuted for an offence under this Ordinance; and (b) is not required to pay any prescribed fee. (3) If the Director has reasonable grounds to believe that there has been or is a contravention by the Government of this Ordinance, the Director must report the matter to the Secretary for Food and

Health.

(4) The report must contain the advice of the Director on—

(a) whether the contravention has been terminated; and

(b) if the contravention has been terminated, whether it has been terminated to the Director's satisfaction.

(5) On receiving the report from the Director, the Secretary for Food and Health must enquire into the matter to which the report relates.

(6) If the enquiry shows that there has been a contravention referred to in subsection (3) and the contravention is likely to be repeated, the Secretary for Food and Health must take the best practicable steps to avoid the recurrence of a like contravention.

(7) If the enquiry shows that there is a contravention referred to in subsection (3) and the contravention is continuing, the Secretary for Food and Health must take the best practicable steps to stop the contravention.".

New By adding—

"**7A. Section 7 amended (control of registered pesticides)**

After section 7(2)—

Add

"(3) Subsection (1) does not apply to an authorized officer or a member of the Customs and Excise Service who is—

(a) exercising a power or purporting to exercise a power under this Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power; or

(b) performing a function or purporting to perform a function under this Ordinance or doing anything in connection with or incidental to the performance or purported performance of the function.

(4) Subsection (1) does not apply to a public officer who is—

(a) exercising a power or purporting to exercise a power under—

(i) the Import and Export Ordinance (Cap. 60);

(ii) the Public Health and Municipal Services Ordinance (Cap. 132);

(iii) the Dangerous Goods Ordinance (Cap. 295); or

(iv) any Ordinance other than this Ordinance; or

(b) doing anything in connection with or incidental to the exercise or purported exercise of the power.".".

8 In the proposed section 8, by adding—

"(8) Subsections (1) and (2) do not apply to an authorized officer or a member of the Customs and Excise Service who is—

(a) exercising a power or purporting to exercise a power under this Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power; or

(b) performing a function or purporting to perform a function under this Ordinance or doing anything in connection with or incidental to the performance or purported performance of the function.

(9) Subsection (1) does not apply to a public officer who is—

(a) exercising a power or purporting to exercise a power under—

(i) the Import and Export Ordinance (Cap. 60);

(ii) the Public Health and Municipal Services Ordinance (Cap. 132);

(iii) the Dangerous Goods Ordinance (Cap. 295); or

(iv) any Ordinance other than this Ordinance; or

(b) doing anything in connection with or incidental to the exercise or purported exercise of the power.".

New — By adding—

"**10A. Section 14 substituted**

Section 14—

Repeal the section

Substitute

"**14. Appointment of inspectors and authorized officers**

The Director may appoint in writing a public officer to be an inspector or authorized officer (or both) for the purposes of this Ordinance.".".

12 — In the proposed section 15A, in the heading, by deleting "**for routine inspection**" and substituting "**without warrant**".

12 — In the proposed section 15A(3)(c), in the Chinese text, by adding "及" after the semicolon.

14 In the proposed section 16A(1)(a), by deleting "section 5(3)" and substituting "section 5(3)(b)".

14 In the proposed section 16A(1)(d), by deleting "section 9(2)" and substituting "section 9(2)(b)".

18 In the proposed section 19A(1)(a), in the English text, by deleting "CAS" and substituting "Chemical Abstracts Service (***CAS***)".

18 By deleting the proposed section 19B(3).

20 In the proposed Schedule 2, in Part 1, by adding—

"4A. Azinphos-methyl 86-50-0".

25(1) By deleting the proposed item 7 and substituting—

"7. For issue of a permit under regulation 7(1) for the purpose of importing or possessing a scheduled pesticide or any other unregistered pesticide only for re-export without re-packaging (including transhipment of a scheduled pesticide in Hong Kong) ..... 700".

25(2) In the proposed item 8, by deleting paragraph (a) and substituting—

"(a) for any purposes not specified in item 7; or".

25(3) By deleting the proposed item 13 and substituting—

"13. For extension of a permit under

	regulation 7(3) for the purpose of importing or possessing a scheduled pesticide or any other unregistered pesticide only for re-export without re-packaging (including transhipment of a scheduled pesticide in Hong Kong)…..	395".
25(4)	In the proposed item 14, by deleting paragraph (a) and substituting— "(a) for any purposes not specified in item 13; or".	
26	In the proposed item 73, in paragraph (a), by deleting "section 5(3)" and substituting "section 5(3)(b)".	
26	In the proposed item 73, in paragraph (d), by deleting "section 9(2)" and substituting "section 9(2)(b)".	