

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 31 October 2012

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 JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

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

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

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

THE HONOURABLE 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 PRISCILLA LEUNG MEI-FUN, 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 CHUNG KWOK-PAN

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

THE HONOURABLE TONY TSE WAI-CHUEN

MEMBERS ABSENT:

THE HONOURABLE LEE CHEUK-YAN

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

PUBLIC OFFICERS ATTENDING:

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S.,
J.P.

SECRETARY FOR TRANSPORT AND HOUSING

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

MS JULIA LEUNG FUNG-YEE, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

CLERKS IN ATTENDANCE:

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

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber.

(After the summoning bell had been rung, a number of Members entered the Chamber)

TABLING OF PAPERS

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

- No. 10 — Construction Workers Registration Authority
Annual Report 2011-2012
- No. 11 — Electrical and Mechanical Services Trading Fund
Annual Report 2011/12
- No. 12 — Environment and Conservation Fund
Trustee Report 2011-2012
- No. 13 — Traffic Accident Victims Assistance Fund
Annual Report for the year from 1 April 2011 to
31 March 2012
- No. 14 — Office of the Telecommunications Authority
Trading Fund Report 2011/12
- No. 15 — Hongkong Post Annual Report 2011/12

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. In accordance with rule 9A of the House Rules, the time taken by each oral question should not exceed 22 minutes in total. After a Member has asked a main question and the relevant public officer has given reply, the Member who asks the question has priority to ask the first supplementary question. Other Members who wish to ask supplementary

questions may indicate their wish by pressing the "Request to speak" button and wait for their turn.

I would like to remind Members that they may raise only one question in asking supplementary questions. These questions should be as concise as possible and Members should not make arguments so that more Members can ask supplementary questions.

First question.

Concluding Observations and Recommendations of United Nations Committee on the Rights of Persons with Disabilities

1. **MS EMILY LAU** (in Cantonese): *President, at its meetings held on 18 and 19 September in Geneva, the United Nations Committee on the Rights of Persons with Disabilities (the Committee) considered the report submitted by China (including Hong Kong and Macao) on China's fulfillment of her obligations under the Convention on the Rights of Persons with Disabilities (the Convention), and the Committee published its concluding observations and recommendations at the end of September. In this connection, will the executive authorities inform this Council:*

- (a) *given that the Committee has pointed out in its concluding observations that the rank of Hong Kong's Commissioner for Rehabilitation (C for R) is too low and that Hong Kong lacks an independent monitoring mechanism, whether the authorities will consider appointing a person of a higher rank to be the C for R and setting up an independent monitoring mechanism so as to ensure that Hong Kong will effectively fulfil her obligations under the Convention;*
- (b) *given that the Committee has expressed concern about the rather passive role adopted by the Equal Opportunities Commission (EOC), which is responsible for monitoring and executing the Disability Discrimination Ordinance (DDO), how the authorities will make improvements in this regard; and*

- (c) *whether they will set up an inter-departmental group led by the Chief Secretary for Administration, with dedicated responsibility for executing and co-ordinating matters in relation to fulfilling the obligations under the Convention and handling issues about the rights and interests of persons with disabilities?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the Hong Kong Special Administrative Region (HKSAR) Government is committed to promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities in accordance with the law, and to promoting respect for their inherent dignity. It has all along been our policy objective to help persons with disabilities develop their capabilities as well as to build a barrier-free living environment with a view to enabling persons with disabilities to participate in full both in social life and personal growth, and enjoy equal opportunities. This is the spirit and core value enshrined in the United Nations the Convention as well as the direction of further development of rehabilitation services in Hong Kong.

My reply to Ms Emily LAU's question is as follows:

- (a) The C for R of the Labour and Welfare Bureau is responsible to the Secretary for Labour and Welfare for the formulation of the overall rehabilitation policy for persons with disabilities, and for co-ordinating and facilitating all government departments, public organizations and non-governmental organizations (NGOs) in the development and provision of rehabilitation services. Following the application of the Convention to Hong Kong, the C for R has henceforth taken up the role as the focal point within the HKSAR Government for matters relating to the implementation of the Convention. Meanwhile, relevant bureaux and departments have the responsibilities to ensure that the policies and measures under their purview are in compliance with the spirit and provisions of the Convention. Subject to the development of the implementation of the Convention and related work, we will consider reviewing the duties and responsibilities and ranking of the C for R post, as well as the establishment and manpower of his/her team.

As for the monitoring mechanism, the EOC, as the statutory and independent enforcement agency of the DDO, has all along been upholding the equal opportunities of persons with disabilities and safeguarding their specified rights under DDO. In tandem, the Rehabilitation Advisory Committee (RAC), being the principal advisory body of the Government on the rights and well-being of persons with disabilities, has been assuming the important role of monitoring the implementation of the Convention in Hong Kong in addition to assisting the Government in promoting the Convention. The Chairman, Vice-Chairman and members of RAC are all non-officials, including persons with different disabilities, parents of persons with disabilities, representatives from self-help organizations of persons with disabilities and NGOs providing rehabilitation services, academics, community and business leaders, professionals and other persons who have a keen interest in the well-being of persons with disabilities. Representatives of relevant government bureaux and departments also serve as ex-officio members to provide the necessary support to RAC and follow up the issues raised by RAC as appropriate. With wide acceptance and representation, RAC is the most suitable central mechanism to promote the implementation of the Convention. We consider that the existing framework has been effective in monitoring the implementation of the Convention in Hong Kong.

- (b) Apart from handling complaints in accordance with DDO, the EOC will also proactively initiate regular investigations. For the period from 20 September 1996 to 30 September 2012, about 12% of DDO-related investigations were initiated by the EOC. Moreover, the EOC has made proactive efforts to promote the rights of persons with disabilities on different fronts. Some examples are set out below:

(i) *Barrier-free access and facilities*

In December 2006, the EOC initiated a formal investigation on the barrier-free access of the premises and facilities owned or managed by the public sector, including the Hong Kong Housing Authority, Hong Kong Housing Society, The Link Management Limited and

the Government, and released a Formal Investigation Report on Accessibility in Publicly Accessible Premises in June 2010.

(ii) *Mental health*

The EOC has actively participated in the Mental Health Month, a major public education programme, since 1999 and collaborated with the Government and stakeholders to promote mental health. Furthermore, the EOC, in collaboration with relevant NGOs, actively puts forward proposals to the Government for further enhancement of the mental health policy and services.

(iii) *Education*

The EOC has commissioned a Study on Equal Learning Opportunities for Students with Disabilities under the Integrated Education System to review the implementation of integrated education in Hong Kong and to find ways to further enhance the equal learning opportunities of students with special educational needs. The study report is expected to be released at the end of 2012.

- (c) The C for R is responsible to the Secretary for Labour and Welfare for the co-ordination of matters relating to the implementation of the Convention within the HKSAR Government, while relevant bureaux and departments have the responsibilities of reviewing the policies and measures under their purview and taking appropriate follow-up action to ensure that the policies and measures are in compliance with the spirit and provisions of the Convention. Under the existing mechanism, major policies that cut across different bureaux will be discussed at the Policy Committee or the relevant Policy Groups chaired by the Chief Secretary for Administration and the Financial Secretary, and any decisions subsequently made will be properly followed up by relevant bureaux and departments. Where necessary, an inter-departmental task force will be set up to follow up on the matters. For example, with the support and steer of the Chief Secretary for Administration and Secretary for Labour and Welfare, the C for R is responsible for co-ordination with relevant

departments to take forward a large-scale retrofitting programme on upgrading the barrier-free facilities for government venues. With the full co-operation of all relevant departments, the retrofitting programme has made satisfactory progress and achieved the desired results. We consider that the existing framework has been effective in addressing the issues relating to persons with disabilities.

Promotion and implementation of the Convention is an ongoing initiative. During the process, we will continue to work in close partnership with the RAC, EOC, groups of persons with disabilities, the rehabilitation sector and other sectors in the community to strive to further promote the rights and equal opportunities for persons with disabilities, and to facilitate their active participation in community activities and full integration into society, with a view to building an inclusive, caring and equal society.

MS EMILY LAU (in Cantonese): *President, it is rather rare for the Committee to criticize that the rank of Hong Kong's C for R is too low. Though I have attended meetings of the United Nations in the past 20 years, I have never come across such a case. This also reflects that the Committee deeply understands the operations in Hong Kong. President, we very much respect the C for R sitting beside the Secretary and we actually attended a meeting in Geneva together.*

However, speaking of the culture of the authorities, whenever they apply to the Finance Committee for approval to create new posts and upgrade the ranking of certain posts, they certainly provide the reason that "men should marry women of the same social class", stating that if the ranking of the posts are not high enough, things cannot be done. I wonder if the Secretary will overturn this argument today. The Secretary has also said that the C for R is a focal point, yet how can he play his role when "the gate is high and the guard dogs are ferocious"? If things work out well, the Committee will not propose appointing a person of a higher rank to be the C for R. As many issues involved a number of departments and bureaux, the Committee is of the view that nobody would bother to listen to a D2 officer. However, the Secretary still insists that the Government will consider reviewing the duties and responsibilities and ranking of the C for R post subject to the development of the implementation of the Convention and related work. As the Committee already considered that we are

not doing enough, should the authorities take remedial actions as soon as possible?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to thank Ms LAU for her comments and supplementary question. We attach great importance to the Committee's recommendations. As I have also mentioned in my main reply, we will actively consider a review of the duties and responsibilities and the ranking of the C for R post, as well as the establishment and manpower of his/her team. I will pay active and special concern about this issue.

But, I would like to add that the C for R is not fighting alone as he has a very close working relationship with me. Coming back to the examples in the main reply, there are over 3 000 public premises that are not friendly to people with disabilities. As we all know, the Government has been asked to make improvements. The Labour and Welfare Bureau has co-ordinated the work, to be followed up by the C for R with my full backing. I would also give advice to the C for R to ensure co-ordination among other Policy Bureaux. So, the C for R has my full support. Even so, I also agree that we must attach importance to the ranking of the C for R and the manpower of his team. I will actively follow up the relevant matters.

MS CYD HO (in Cantonese): *The Secretary has mentioned in the last two paragraphs of his main reply that, with the full co-operation of all relevant departments, the retrofitting programme on upgrading the barrier-free facilities for government venues has made satisfactory progress and achieved the desired results. But, I would like to take this opportunity with the presence of the Secretary for Education to give a specific example as counterevidence.*

A special school in Sham Shui Po for the severely mentally handicapped has been in lack of an effective means of escape for a long time. With more than 70 students, there is only one lift for carrying students away from the scene in the event of a fire. Even when students reach the basement level of the school, they still need to take more than 20 steps to reach the street level. The access is

definitely crucial for safety of life, yet we have followed up the matter for more than a decade but to no avail.

I would like to ask the Secretary whether money will only be immediately available and a timetable set for barrier-free access in major projects or as promised in the Chief Executive's manifesto, while specific means of escape for the general public and unfortunate students will not be provided even after much delay? Should we first change the Government's indifferent attitude?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Ms HO for her supplementary question. If Ms HO can later provide me with the name of the school, I will actively follow up the matter with the Secretary for Education to see how we can help the school. According to my understanding, the Education Bureau has certain plans about school improvement projects. Ms HO, please kindly provide me with the information after the meeting, the Secretary for Education and I will certainly follow up the matter.

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

MS CYD HO (in Cantonese): *President, it seems that the Secretary does not have any information on this matter.*

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

MS CYD HO (in Cantonese): *The Secretary for Education visited the school with me two weeks ago. Can Secretary Matthew CHEUNG ask the Secretary for Education to answer this question?*

PRESIDENT (in Cantonese): Ms HO, the Secretary for Labour and Welfare is responsible for answering this question and he has already done so.

MR CHEUNG KWOK-CHE (in Cantonese): *In reply to Ms Emily LAU's supplementary question, the Secretary has just said that the authorities will consider a review of the duties and responsibilities and the ranking of the C for R post. As we all know, the C for R is responsible for handling matters involving the implementation of the Convention by various departments and bureaux. If the C for R is under the Labour and Welfare Bureau, we would easily think that he handles matters related to labour and welfare; nevertheless, since he has to deal with various departments and bureaux, we consider it essential to upgrade the ranking of the C for R. Furthermore, he should be under the Chief Secretary for Administration because he handles matters involving different bureaux and departments. I would like to ask the Secretary if he will consider submitting this proposal to the Government for consideration?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to thank Mr CHEUNG for his views and supplementary question. Precisely because the C for R will play the role of a co-ordinator and is the focal point after the implementation of the Convention, we will certainly examine in the course of the review the best way to rationalize the arrangement and consolidate the role of the C for R. We will also review whether he should be under any Policy Bureau or the Chief Secretary for Administration's Office.

Nonetheless, I would like to emphasize that, for any major policies involving various bureaux and departments, we would certainly have regular discussion at the Policy Committees led by the Chief Secretary for Administration or the Financial Secretary, though the enforcement work can be carried out by the departments. Evidently, we have put in place an effective mechanism for the comprehensive promotion and co-ordination of policies involving various bureaux and departments.

DR KWOK KA-KI (in Cantonese): *President, surely, the situation that the rank of the C for R is too low and that he fails to promote the work of other departments does not happen today. There is no reason why the Secretary is not aware of the situation as we have exchanged views with him on many occasions.*

I would like to ask a question on mental health as mentioned in the main reply. At present, there are over 200 000 patients with mental illness who

require regular follow-up appointments; among them, 60 000 patients have more serious mental illness. The C for R, as well as the Hospital Authority, fails to provide sufficient support so that the patients can rehabilitate in the community, and no policies have been formulated to help ex-mental patients to seek employment. The Secretary keeps telling us that a review will be conducted. I would like to ask the Secretary: can you tell us exactly when the review on the ranking of the C for R will be completed and how the policy can be practically implemented to assist ex-mental patients in employment or rehabilitation?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am highly concerned about whether the ranking of the C for R can be upgraded. I will commence work immediately, hoping that a decision will be made before the next financial year, in order to tie in with the funding of the financial year and the application for resources. The focus of my work will be to follow up on this matter.

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

DR KWOK KA-KI (in Cantonese): *Will the study and recommendations be implemented before 2013?*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I wish that we can make a specific decision and seek for resources within 2013. To upgrade the ranking of the C for R, we need additional resources and manpower. We will seize the right time in the course of preparing the Budget and address this issue.

MR PAUL TSE (in Cantonese): *President, referring to parts (a) and (b) of the Secretary's main reply about the criticisms of the Committee, it seems that the Secretary does not accept them and he has given a lengthy explanation, and he has even denied the criticisms. What officials have the authorities appointed to defend the position or status of the Hong Kong Government? If the authorities do not agree with the criticisms of the Committee, what follow-up actions will be taken? I would like to declare in passing that I am a member of the EOC.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I would like to thank Mr TSE for his supplementary question and comments. We attach great importance to the views of the Committee and we have sent a 12-member official delegation to attend the meeting. Members of the 12-member delegation include Chairman and members of the RAC, officials from the Labour and Welfare Bureau and other Policy Bureaux, as well as legal advisers. Representatives of civic organizations, people with disabilities and their groups had also attended the meeting.

I want to emphasize that we will carefully review each and every proposal to determine which proposals are feasible and which are not, and we will explain why some proposals are not feasible. We will also be open-minded and act very carefully, and I will immediately follow up various issues, including upgrading the ranking of the C for R. In reply to Dr KWOK's supplementary question, I mention that we hope to make a decision in 2013 on how to upgrade the ranking of the C for R and consolidate his role.

MS EMILY LAU (in Cantonese): *President, when compared with the practice in the past, lower-ranking officials are now appointed to attend the meeting of the Committee. In the past, officials who attended the meeting include Mr LAM Woon-kwong and Mr David LAN, but now lower-ranking officials are appointed to attend the meeting.*

President, the Secretary said that the C for R has played a good role, and when necessary, the Chief Secretary for Administration and the Financial Secretary can act as co-ordinators under the existing mechanism. President, the Secretary has cited barrier-free facilities as an example, but the fact is that the authorities have only taken actions after a report had been published by the EOC

and Mr LAM Woon-kwong had criticized that no improvements could be made even in 100 years if the situation remained unchanged. There are other problems such as mental health, education and undesirable location of institutions, but nobody has activated a co-ordination mechanism. Those people get paid but they do nothing; that is why there are comments about serious inadequacies. The Secretary's reply has not provided an answer

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

MS EMILY LAU (in Cantonese): *I ask the Secretary how he is going to solve the problems. He just talked about the co-ordination for barrier-free facilities, when will the authorities activate the co-ordination mechanism for various other facilities?*

Even though the Chief Secretary for Administration is a "good fighter", I am not sure if she can accomplish so many tasks. Therefore, I have asked in part (c) of my main question whether they will handle such issues. Who are going to co-ordinate other matters? Can the C for R, a D2 officer, be the co-ordinator? How is he going to play the co-ordinating role?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Ms LAU for her supplementary question. I want to make it very clear that each department and bureau has its own duties and tasks. For example, the HA is responsible for mental health and treatment, the Education Bureau is responsible for special education and schools while the Social Welfare Department is responsible for residential care services and community care. There is a clear division of labour and all departments and bureaux are carrying out their respective duties. As for the co-ordination and promotion of policies, if there is overlapping or a need for co-ordination, the C for R will be responsible, and we will be highly concerned about the implementation of the Convention. We will work in line with the recommendations of the Committee and comprehensively review the issues on upgrading the ranking of the C for R and providing the necessary support, with a view to allowing the C for R to more effectively play the role of the focal point and co-ordinator.

Yet, there is mutual co-ordination on the actual work. For example, the HA is responsible for the provision of rehabilitation treatment for patients with mental illness while the Social Welfare Department and the Labour and Welfare Bureau are responsible for the provision of community-based rehabilitation and care. Regarding mechanisms, I have just mentioned that there is a Policy Committee under the Chief Secretary for Administration. Furthermore, before the introduction of major policies, we also have a platform where the Secretaries including me, Dr KO, the Secretary for Education and the Secretary for Home Affairs, will hold regular group meetings, so as to specifically review issues relating to people's livelihood. The abovementioned matters will also be reviewed.

PRESIDENT (in Cantonese): Ms LAU, please concisely repeat your supplementary question.

MS EMILY LAU (in Cantonese): *He has not answered if there is a Policy Bureau responsible for co-ordinating matters concerning education, mental health and institutions, apart from barrier-free access, or is each Policy Bureau fragmented in administration, meaning that nothing can be done. I would like to ask the Secretary if there is now a Policy Bureau responsible for co-ordinating and dealing with these issues?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, we are not fragmented in administration, there is a division of labour and each Policy Bureau has different scope of responsibilities. The C for R is responsible for co-ordination and consolidation. I will intervene and personally contact the Secretary concerned if there are problems. If it is necessary for Secretaries of Departments to be involved, we will rationalize the matter and comprehensively push forward the relevant work. Hence, there is a mechanism and it has all along been effective.

PRESIDENT (in Cantonese): Last supplementary question.

MR ALBERT HO (in Cantonese): *President, as the Secretary has just said, the rehabilitation policy has multiple levels and functions and its complexity requires the support of a number of policies. No matter how well-intentioned the C for R is, I wonder how he can perform his functions effectively if he is only a D2 officer. In this regard, the Commission has a very clear idea that*

PRESIDENT (in Cantonese): Mr HO, please state your supplementary question.

MR ALBERT HO (in Cantonese): *My supplementary question is very simple. I remember that a White Paper on rehabilitation policies was published years ago, which indicated the Government's commitment at that time to implement comprehensive policies; yet no actions have been taken all these years. If the Secretary considers that co-ordination is important and will provide comprehensive support, can he tell us whether a comprehensive White Paper on rehabilitation policies will be published? If so, when will the White Paper be published?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr HO for his supplementary question. Members may remember that the RAC proposed the Rehabilitation Programme Plan (RPP) a few years ago, with a more broad-based and macro approach for the development of rehabilitation services. We are now moving in the direction of the RPP to implement, promote and optimize the related services.

PRESIDENT (in Cantonese): Second question.

International School Places

2. **DR KENNETH CHAN** (in Cantonese): *President, it has been reported that the Government plans to resume the site where the International Montessori School (IMS) is situated for development of a youth hostel, and that the relocation of IMS may reduce the existing number of international school places.*

Regarding the relocation of IMS and the policy on international schools, will the Government inform this Council:

- (a) of the Government's specific plan to resume the aforesaid site; whether the Government will provide assistance to IMS, its teachers and students as well as the parents; if it will, of the details; given that IMS had moved three times in the past decade or so, whether the Government will assist IMS in developing a permanent campus; if it will, of the details; if not, the reasons for that;*
- (b) of the number of foreign students in the past three years who needed to study at international schools but went to local schools due to a shortage of international school places; whether the Government will adopt some short-term and transitional measures to assist students who cannot secure international school places in the near future in tackling their learning difficulties; if it will, of the details; if not, the reasons for that; and*
- (c) given that some parents have pointed out that the shortage of international school places at present directly affects the desire of overseas talents and investors to develop their career and make investments in Hong Kong, whether the Government will honour the Chief Executive's pledge in his manifesto by formulating a specific policy on increasing international school places; if it will, of the specific details of the policy; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Cantonese): President, the SAR Government is committed to developing a vibrant international school sector in meeting the education needs of overseas and local families in Hong Kong. Over the past decade, the number of international school places has increased by about 20% from 31 000 in the 2001-2002 school year to 37 000 in the 2011-2012 school year. Our response to the three parts of the question raised by Dr CHAN is as follows:

- (a) and (c)

Measures to support international school development include facilitating in-situ expansion of existing international schools as well

as allocating vacant school premises and greenfield sites for development of international schools. We have approved several international schools (such as the Hong Kong International School and the French International School) to undergo in-situ expansion in recent years. Of which, the Hong Kong International School will provide 500 additional primary and secondary places through the expansion project in the next few years.

On the allocation of vacant school premises and greenfield sites, we generally allocate those premises and sites for designated school use, including international school use, to school operators through an open and competitive central bidding process. Through this mechanism, we have already allocated four vacant school premises and four greenfield sites between 2007 and 2009 for the expansion and development of international schools respectively. The four international schools allocated with vacant school premises will progressively provide 500 additional places from the 2011-2012 school year. Among the four school operators allocated with greenfield sites, the Harrow International School Hong Kong has commenced operation in September 2012, providing over 700 places. The Kellett School and the Hong Kong Academy are scheduled to commence operation in the coming school year providing over 1 400 places. The Christian Alliance P. C. Lau Memorial International School is expected to complete the school construction project by the 2016-2017 school year. Moreover, in the previous legislative session, the Legislative Council Finance Committee has approved the Government to provide interest-free loan totalling over \$600 million to three international schools allocated with greenfield sites for the construction of the new premises. We will submit a similar application to the Finance Committee for the remaining school operator when the land grant and related procedures are completed.

Earlier this month, we have invited interested parties to apply for another four vacant school premises for international school development. The allocation exercise is expected to be completed within the first quarter of next year. We target to provide over 1 000 school places through these premises. In order to meet the

demand for international school places from non-local students, we now require school operators allocated with greenfield sites or vacant school premises to admit non-local students at no less than 70% of their overall student population.

As regards the IMS, it is operating at the premises of a closed down school located on a private land owned by the Hong Kong Construction Association. A few months ago, a non-governmental organization (NGO) indicated interest in utilizing this site for the purpose of youth hostel development. Recently, the Home Affairs Bureau has clearly informed the NGO that insofar the subject site will continue to be deployed as a school, it will not support any NGO in developing youth hostel at the site. Should IMS like to look for a permanent campus, it could apply for use of any vacant school premises or greenfield sites through the open and competitive bidding mechanism mentioned above.

- (b) We have not conducted any survey on the number of foreign students studying in local schools and thus do not have the relevant statistics. According to the student enrolment survey, in the 2011-2012 school year, there were 47 international schools providing 37 000 school places. About 33 000 students were enrolled in these schools. While the overall fill-up rate of around 89% implies that there is no shortage in terms of overall provision, there is imbalance in the demand and supply of school places in some particular districts or schools. There are a number of factors leading to the imbalance including choice of parents in respect of the quality, geographical location, curriculum, religious or cultural background of the schools, as well as whether vacancies are available at the grade levels in demand. Furthermore, we note that some parents have placed their children on the waiting list of a number of international schools at the same time.

We have commissioned a study to stock-take the existing provision of international school places and project the future demand and supply. The study is expected to complete by the end of this year. We will then take into consideration the findings of the study to project the long-term provision and demand of international school places and to review the genuine need for implementing further

facilitation measures. Given the scarcity of land resources in Hong Kong, we must ensure that these valuable resources are utilized effectively and in the overall interests of the public, when considering whether to allocate more greenfield sites for international school development.

DR KENNETH CHAN (in Cantonese): *In the Secretary's reply, it is stated that there is no shortage in terms of the overall provision of international schools. However, in LEUNG Chun-ying's manifesto, it is said that "we are mindful of the educational needs of expatriate students Having regard to the shortage of places at international schools, we will work with relevant stakeholders (such as chambers of commerce of foreign countries) to identify practical solutions". So, who is right, the Secretary or the Chief Executive? Or, are both of them wrong? I really cannot tell. Nonetheless, the case of the IMS is actually a real-life example of "Mencius's mother moving her home three times" that occurs in the HKSAR. It has moved three times in 10 years. In his earlier reply, the Secretary told us to rest assured because his policy can serve as an assurance. He said that the voluntary organization concerned "would probably not" resume the land. And yet, the Secretary has not mentioned that the lease is only for two more years. No one knows what would happen two years later. The IMS has moved three times, can the Secretary give a simple reply to my supplementary question? The present situation is that while some schools have both campuses and land, and can have bigger campus through expansion or even identify new site for setting up a branch, the IMS has all along failed to identify a permanent campus. It remains difficult for the IMS to settle down. Therefore, while calling on schools to apply for sites through the open and competitive bidding mechanism, will the Secretary take into account the needs of international schools which do not have permanent campus so that they can receive reasonable and fair treatment?*

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to the Member for his supplementary question. My reply has two points: First, as clearly stated in the Chief Executive's manifesto, we need to have long-term planning. Thus, we have commissioned a study and it is hoped that a report will be available in a few months. Second

PRESIDENT (in Cantonese): Dr CHAN, what is your point?

DR KENNETH CHAN (in Cantonese): *I have quoted the remarks made by the Chief Executive, and that is, to "work with relevant stakeholders to identify practical solutions". I hope that the Secretary will read the manifesto before answering my supplementary question.*

PRESIDENT (in Cantonese): Members should note that they are not supposed to debate with the Secretary during the oral question time. Dr CHAN, if you disagree with the Secretary's reply or wish to express certain views, you should resort to other channels. Secretary, please continue with your reply.

SECRETARY FOR EDUCATION (in Cantonese): President, in view of the importance of the issue, I have met with various organizations in the past few months and held a couple of discussions with the IMS. Thus, Members can rest assured as I am very concerned about this school and the relevant issue. Just now, I have indicated my wish to receive the consultancy report by the end of this year so that we can expeditiously examine the relevant issues. Also, I would like to mention in passing that we have liaised with individual chambers of commerce and consulates as well.

Secondly, regarding the IMS, I have discussed with it in the past few months, and encouraged it to apply in the recent allocation of vacant school premises for international school development. As far as I understand, the process has begun and I can tell Members that the IMS is considering this option.

MR KENNETH LEUNG (in Cantonese): *Secretary, as mentioned in parts (a) and (c) of the main reply, vacant school premises and greenfield sites would be allocated through the open and competitive bidding mechanism. Will the Secretary inform this Council of the criteria of this mechanism? Will the Government consider the history and contributions of the relevant school sponsoring bodies in Hong Kong before making a decision?*

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

This competitive and open vetting mechanism is monitored by the School Allocation Committee (SAC), which is comprised of official and unofficial professionals. I have also met and discussed the relevant issue with the committee members. When allocating the vacant school premises, they will consider and examine a basket of applications and factors, which include the teaching quality and performance of the school sponsoring bodies; the need for expansion or development; whether they have clear admission policy and targets; the courses and vetting work; the support provided for students; the modes of governance; the financial plans, and whether the school sponsoring body has the confidence and ability to implement the plan as scheduled.

MR DENNIS KWOK (in Cantonese): *President, Secretary, the IMS is the only international school in Hong Kong that does not have a permanent campus. Will the Government consider giving priority to this school to choose a permanent site on special ground when appropriate site is identified?*

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

I have mentioned a basket of factors earlier. Given that the characteristics of the IMS are featured in a number of special factors, I trust that the SAC would deal with the case in an impartial manner.

MRS REGINA IP (in Cantonese): *President, in fact, the IMS is not the only international school in Hong Kong that does not have a permanent campus. As far as I understand, another school called Elsa High School also does not have a permanent campus and is now applying for one. My question for Secretary Eddie NG is: Although Elsa High School does not have a high student intake for the time being, it is the only Jewish school in Asia which even teaches Hebrew. Considering from the perspective of attracting foreign investment, Secretary Eddie NG should be aware that Jews are found in many professional sectors and they have an important role to play, so will the Secretary assist this school in*

obtaining a permanent campus as the lease of its campus is due to expire next year?

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

I need to collect more information about this school. Since we have openly encouraged individual schools to apply for permanent campus, I am pretty sure that the school concerned should have received the relevant information. If any school is interested, it may apply in accordance with the necessary procedures.

PRESIDENT (in Cantonese): Mr Martin LIAO, what is your point? Is it a point of order?

MR MARTIN LIAO (in Cantonese): *Yes, I am going to raise a question because just now I failed to locate my microphone.*

PRESIDENT (in Cantonese): Do you want to raise a supplementary question?

MR MARTIN LIAO (in Cantonese): *What?*

PRESIDENT (in Cantonese): Do you want to raise a supplementary question or a point of order?

MR MARTIN LIAO (in Cantonese): *I want to raise a supplementary question.*

PRESIDENT (in Cantonese): If you want to raise a supplementary question, please press the "Request to speak" button and wait for your turn. There are now six Members waiting for their turn.

MR CHARLES PETER MOK (in Cantonese): *President, in part (c) of Dr Kenneth CHAN's main question, he pointed out that the shortage of international school places has directly affected the desire of overseas talents and investors to develop their career and make investments in Hong Kong. I have heard of this problem time and again in my sector as well. Hence, Dr Kenneth CHAN asked if the Government will honour the Chief Executive's pledge in his manifesto by formulating a specific policy to increase international school places. However, unfortunately, we learn from the Secretary's main reply that the overall fill-up rate is 89%, which is nearly full-house in terms of occupancy. He then went on to say that this precisely demonstrates that there is no shortage of international school places. He has completely failed to answer the main question on how the Chief Executive's pledge in his manifesto to increase international school places will be honoured. The argument is not whether there is insufficient supply of school places. My supplementary question is: Will the upcoming consultancy study specifically target at the relations between insufficient school places and the desire of investors and professionals to come to Hong Kong to develop their career? Is there any previous proof of their relations? Or, what will be done in the future? For members of the trade, it is extremely important to analyse their relations.*

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

As I have said, we hope that the consultancy report can be expeditiously completed and have its findings published. In the course of study, we have examined from two perspectives. Firstly, consult the business sector and the chambers of commerce on their needs, problems and future demand. Secondly, request the schools concerned to provide the relevant information, including the name list and the waiting list. This is the first point. The second point is, having worked in a multinational company, I fully understand the problems concerned. In view of the rapidly changing economic development, employees are often deployed to other regions at very short notice and Members should understand that. This is a global issue and is not unique to Hong Kong. Nonetheless we have noticed two points. Most international schools do not have shortfall at the secondary level. The problem only arises at the primary level as shortfall might sometimes emerge in certain grades. Even if there is shortfall in certain classes, courses or schools, it is not easy for the school concerned to expand the classes as this has to be determined by a basket of factors. We must

therefore conduct a systematic study to enable us to have a good grasp of the problem.

Of the 47 international schools, most have an enrolment rate reaching 100% whereas others have 60%, 70% or 80%. So, I have to take into account such an uneven distribution. I cannot say that the provision of 37 000 school places should be able to cater for all needs as the requirements and needs of individual parents may vary.

MR MARTIN LIAO (in Cantonese): *President, I am aware that the senior management of many professional sectors or multinational companies has often complained and I believe the scenario described in the Chief Executive's manifesto is true. And yet, the present 47 international schools have offered a total of 37 000 school places but only 33 000 students have enrolled. What is the problem? In fact, many people told me that the problem in Hong Kong is not an insufficient supply of international school places, but a lack of good international schools. Therefore, will the Secretary and the Education Bureau consider from the perspective of resource allocation and allocate resources to those more seasoned and competent international school sponsoring bodies?*

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

Just now, I have particularly stressed that when doing the assessment, the SAC will focus on one or two major factors, which include the schools' teaching quality and curriculum design, as well as competence and performance. These factors will be taken into consideration.

MR RONNY TONG (in Cantonese): *President, I notice that the figures provided by the Secretary in his reply have not differentiated secondary and primary school places. President, there is a difference in the demand for international school places at the secondary and primary levels. While many Hong Kong people want to send their children to international schools, overseas investors — especially professionals coming to work in Hong Kong — have particularly strong demand for primary school places. When we meet with the overseas*

chambers of commerce, we often hear complaints that children of bank employees or professionals failed to secure any school places on arriving Hong Kong. However, President, I notice that in part (b) of the main reply, the Secretary said that there is no statistics on the number of foreign students studying in local schools. I am astonished. With the mounting discontent in Hong Kong, which is an international community, and the longstanding complaint that

PRESIDENT (in Cantonese): Mr TONG, please stop delivering a long speech and raise your supplementary question.

MR RONNY TONG (in Cantonese): *as there are insufficient primary places in international schools to cope with the demand, how come no relevant statistics is available in this respect? President, while I am aware that the Secretary may not be able to give a reply now as he does not have the relevant information in hand, I do hope that he can give a written reply later to provide us with a detailed analysis of the respective demands for secondary, primary and even kindergarten school places at present, as well as the number of foreign students studying in Hong Kong. As for their expectations — in order to meet the demand of overseas investors or professionals — how many additional school places will be required? I think that this is actually the basic responsibility of the Secretary.*

PRESIDENT (in Cantonese): Mr TONG, please be seated and let the Secretary reply.

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

As I have mentioned earlier, although temporary figures for the overall international school places at the secondary and primary levels are available, they have yet to be confirmed with the final analysis of the consultancy report. Secondary school places are relatively more sufficient, whereas an additional 4 200 primary school places will have to be provided from now on to 2016-2017, according to the initial analysis of the study. Our target for the coming year is,

for instance, to provide 1 000 additional school places by allocating four vacant school campuses for international school development. I hope the number of school places will increase gradually. More importantly, however, as you have just said, we must get hold of some information, and the necessary statistics will be provided in the consultancy report.

I wish to mention again that in order to distinguish local students from foreign students or students of other nationalities, we need to check their identification documents and international schools have been requested to provide the relevant information. However, I must tell you that not all of them have provided or are willing to provide the necessary information. As a result, the data in hand is not comprehensive and this is why I said we do not have the statistics.

PRESIDENT (in Cantonese): This Council has spent more than 24 minutes on this question. Third question.

Tenants Purchase Scheme

3. **MISS CHAN YUEN-HAN** (in Cantonese): *In the 1997-1998 Policy Address, the Government pledged that it would, within 10 years, provide the opportunity for at least 250 000 families living in public rental housing (PRH) to buy their flats, with a view to achieving 70% home ownership by the end of 2007. The Hong Kong Housing Authority (HA) therefore launched the Tenants Purchase Scheme (TPS) in early 1998, but the Scheme was halted in 2005. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of housing estates and flats that had been included in TPS in the past, the number of flats sold each year, and the percentages of such numbers against the total number of tenants eligible for TPS, with a breakdown by housing estate; given that the households in TPS estates include both tenants and owners, of the number of complaints and requests for assistance relating to building management and maintenance received by the authorities so far, and the relevant details;*

- (b) *given the persistently high prices of private housing at present, whether the authorities will consider afresh re-launching TPS, so as to provide the opportunity for more families to buy their own flats; if they will, of the factors for consideration as well as the details; if not, the reasons for that; and*
- (c) *whether the authorities will request the HA to conduct in-depth discussion on the current situation and future development of TPS; if they will, of the details and the relevant arrangements; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the TPS was introduced in 1998 by the HA to enable PRH tenants to buy the flats they lived in at a discounted price, thereby helping to achieve the then policy objective of attaining a home ownership rate of 70% in Hong Kong in 10 years' time.

Subsequently, in response to the significant change in the property market and the economic downturn following the Asian financial crisis, the Government re-positioned the housing policies in 2002. These included the dropping of the target for home ownership, and the withdrawal of the HA from the property sale market as far as possible. Thus, there were no longer any grounds for continuing the TPS. Accordingly, the HA decided to cease the sale of PRH flats after launching Phase 6B of the TPS in August 2005.

Out of a total of about 183 700 flats available for sale in the 39 estates with TPS implemented, about 121 100 flats have been sold as at the end of September 2012, representing 66% of the total number of flats available for sale. The relevant statistics are at Annex A to the main reply. There were still about 62 600 unsold flats in TPS estates. Tenants living in these units can opt to buy the flats they are living in. A table setting out the years of launch of sale for each TPS estate over the years and their respective sale position is at Annex B.

The TPS estates of the HA, regardless of the number of flats sold, are no different from private premises. Flat owners of the HA's TPS estates will form their Owners' Corporation (OC) in accordance with the Deeds of Mutual Covenant and the Building Management Ordinance. Once the OC is formed, it

will take over the management of the estate from the HA, and appoint private property management agencies to administer management matters of the estate. At present, all of the 39 TPS estates have formed their own OCs and appointed property management agencies to carry out the management and maintenance works in the estates. The HA does not have information on the number of complaints and requests received regarding estate management.

As for the enquiry of Miss CHAN in the main question as to whether the TPS would be re-launched, the Government has two main considerations in this regard.

Firstly, the number of PRH applications has increased persistently in recent years, reflecting the keen demand from the community. As at the end of June 2012, there were over 199 600 applications on the Waiting List. Apart from new flats built each year, recovered flats are also an important source of PRH supply. Selling PRH flats to tenants is tantamount to reducing the overall supply of PRH. Inevitably, the turnover and supply of PRH flats will be affected, and this will eventually affect the HA's ability to maintain the average waiting time for general applicants (excluding non-elderly one-person applicants under the Quota and Points System) at around three years.

Secondly, at present, the HA has encountered many problems with the management of the residual PRH flats in the 39 TPS estates. The HA's estate management policies cannot be fully implemented in these TPS estates, resulting in PRH tenants living in the TPS estates and those living in non-TPS estates being subject to different management regimes. For example, the Marking Scheme for Estate Management Enforcement (the Marking Scheme) is not implemented in the public areas of all TPS estates. The HA can only deal with the misdeeds committed in rental flats of the TPS estates, such as accumulating a large quantity of refuse inside premises, throwing objects from height, and so on. As for misdeeds committed in public areas, such as littering, boiling wax, and so on, they cannot be dealt with by the Marking Scheme.

In view of the above, we do not intend to re-launch the TPS in other public housing estates now. That said, let me repeat the point that under the existing policy, sitting tenants in the 39 TPS estates can still opt to buy the rental flats in which they are living.

We understand that the community is very concerned about the livelihood issue of housing. The Government provides housing choices at different levels for people with different levels of affordability. PRH is the entry point at which low-income families who cannot afford private rental accommodation may secure decent, subsidized rental accommodation. The HA will continue to take on the responsibility of providing PRH in order to meet the basic housing needs of these people.

Beyond the PRH, we will resume the Home Ownership Scheme (HOS) in response to the aspirations of low and middle-income families to buy their own homes. Some 17 000 new HOS flats will be provided over the four years from 2016-2017 onwards. The Government has already commenced a review of the long term housing strategy to conduct a comprehensive assessment of housing demand of various sectors and groups of the community, which will facilitate the planning of housing supply for both the public and private sectors in the medium and long run, including meeting the home ownership aspiration of the community. In the short term, the HA will release the 832 Surplus HOS flats for sale early next year. As for the 1 000 flats of the Tsing Luk Street project being developed by the Hong Kong Housing Society, which was originally under the "My Home Purchase Plan", sales arrangements will be announced towards the end of this year.

Besides, those living in PRH with aspiration for home ownership can also purchase second-hand HOS flats and TPS flats with premium not yet paid under the Secondary Market Scheme. At the same time, as an interim measure before the first batch of new HOS flats are completed in 2016-2017, we will, starting from next year, allow 5 000 buyers with White Form status each year to purchase HOS flats and TPS flats with premium not yet paid on the Secondary Market.

Annex A

Sale of TPS Flats by Year

<i>Year</i>	<i>TPS Flats sold by the HA*</i>
1998	16 679
1999	13 197
2000	24 196

<i>Year</i>	<i>TPS Flats sold by the HA*</i>
2001	16 613
2002	17 428
2003	3 434
2004	2 239
2005	9 897
2006	9 524
2007	3 405
2008	1 113
2009	696
2010	1 363
2011	1 677
2012 (as at end-September)	1 319

Note:

* Including flats bought back by the HA and flats re-sold after buy-back

Annex B

Statistics on TPS (as at September 2012)

<i>District</i>	<i>Name of TPS Estate</i>	<i>Year Launched</i>	<i>Number of Flats Sold*</i>	<i>Number of Flats Unsold</i>	<i>Total</i>	<i>% Sold</i>
Urban	Wah Kwai	1998	2 579	621	3 200	81%
	Fung Tak	1998	3 954	1 346	5 300	75%
	Chuk Yuen North	1999	5 300	1 436	6 736	79%
	Tsui Wan	1999	1 701	639	2 340	73%
	Tak Tin	1999	3 402	1 716	5 118	66%
	Fung Wah	2000	861	288	1 149	75%
	Choi Ha	2000	1 605	605	2 210	73%
	Lower Wong Tai Sin (I)	2001	2 922	1 798	4 720	62%
	Hing Tin	2001	1 930	518	2 448	79%
	Lei Cheng Uk	2002	3 417	1 408	4 825	71%
	Tung Tau (II)	2002	4 057	2 498	6 555	62%
	Tsui Ping North	2002	2 964	3 184	6 148	48%
	Lei Tung	2004	4 583	2 636	7 219	63%
	Nam Cheong	2005	1 108	790	1 898	58%
	Sub-total for Urban District			40 383	19 483	59 866

<i>District</i>	<i>Name of TPS Estate</i>	<i>Year Launched</i>	<i>Number of Flats Sold*</i>	<i>Number of Flats Unsold</i>	<i>Total</i>	<i>% Sold</i>
Extended Urban	Cheung On	1998	5 920	1 418	7 338	81%
	Heng On	1998	4 916	968	5 884	84%
	Yiu On	1999	3 606	1 192	4 798	75%
	Hin Keng	2000	5 056	820	5 876	86%
	Tsing Yi	2001	2 417	797	3 214	75%
	King Lam	2001	3 495	1 436	4 931	71%
	Kwong Yuen	2001	2 971	1 417	4 388	68%
	Pok Hong	2002	4 175	1 289	5 464	76%
	Kwai Hing	2002	1 163	365	1 528	76%
	Po Lam	2004	3 184	1 824	5 008	64%
	Cheung Fat	2005	1 207	1 271	2 478	49%
	Tsui Lam	2006	3 162	1 770	4 932	64%
	Sub-total for Extended Urban District			41 272	14 567	55 839
New Territories	Kin Sang	1998	2 025	627	2 652	76%
	Wan Tau Tong	1998	1 984	651	2 635	75%
	Tin King	1999	2 149	1 039	3 188	67%
	Wah Ming	1999	3 478	1 753	5 231	66%
	Ting Ping	2000	4 438	1 262	5 700	78%
	Tai Wo	2000	4 772	2 073	6 845	70%
	Fu Heng	2000	3 817	1 911	5 728	67%
	Leung King	2001	3 617	3 227	6 844	53%
	Tai Ping	2002	1 092	337	1 429	76%
	Cheung Wah	2004	3 016	2 104	5 120	59%
	Shan King	2004	2 126	6 518	8 644	25%
	Fu Shin	2005	2 940	2 563	5 503	53%
	Long Ping	2006	3 986	4 497	8 483	47%
Sub-total for New Territories			39 440	28 562	68 002	58%
Total			121 095	62 612	183 707	66%

Note:

* Excluding flats bought back by the HA

MISS CHAN YUEN-HAN (in Cantonese): *President, I thank the Secretary for providing us with some detailed information in the main reply just now. Nonetheless, I wonder if the Secretary is aware that PRH tenants are facing a very difficult situation now. As pointed out in the Secretary's main reply, the Government will resume the HOS. This will give them some hope because HOS*

flats have not been constructed for a long time. But they are now paying high rents for PRH flats. For example, the rent of PRH flats for four to five persons in Wong Tai Sin amounts to some \$2,000 in general, while that of PRH flats for larger households even exceeds \$3,000. As PRH households must meet the specified eligibility requirements, they are really having a hard time as such high levels of rent have already taken up a large portion of their income. Although the Secretary has indicated that the HOS will be resumed, there is still a time gap from the commencement of construction works to completion, how can the authorities resolve their problem?

Moreover, the well-off tenants policy has affected tenants. Under this policy, all salaries earned by grown-up children will be counted towards household income. Hence, households with grown-up children often become well-off tenants, and are required to pay double rent. Because of this, the children will move out one after another. Many singleton PRH tenants in my constituency have children, but their children have moved away one after another because of this policy. This situation runs completely contrary to the Government's policy of "ageing in place"

PRESIDENT (in Cantonese): Miss CHAN, please ask your supplementary question.

MISS CHAN YUEN-HAN (in Cantonese): *I would like to ask the Secretary I now ask him*

PRESIDENT (in Cantonese): Please ask your question.

MISS CHAN YUEN-HAN (in Cantonese): *I am telling him the hardship and difficulties faced by ordinary members of the public. My supplementary question to the Secretary is: In the interim before the resumption of HOS, how can the Government resolve their problem? Although the Secretary said that there are many channels, objectively speaking, the problem cannot be solved easily. I would like to ask the Secretary whether, under this circumstance, the*

well-off tenants policy can be suspended in order to solve the problem that tenants are now facing?

PRESIDENT (in Cantonese): Do you want to ask the Secretary whether the well-off tenants policy will be suspended?

MISS CHAN YUEN-HAN (in Cantonese): *Yes.*

PRESIDENT (in Cantonese): Secretary, please reply.

MISS CHAN YUEN-HAN (in Cantonese): *Before the authorities can achieve The well-off tenants policy should be suspended so that the hardship of tenants can be relieved a little.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the current level of rents paid by PRH tenants is determined according to an established formula which reflects public affordability.

Regarding the so-called well-off tenants policy, the matter has previously been discussed by the HA, as well as by the relevant committees of the Legislative Council. This policy aims at ensuring the relatively fair allocation of our limited PRH resources to the most needy persons in the community.

Of course, I have often heard of the problems faced by some PRH tenants as relayed by Miss CHAN just now. We often learn about and are aware of the different problems encountered by individual households. Nonetheless, as PRH policy is a major policy, we must ensure a fair allocation of our limited PRH resources so that they can be used by persons with a greater need.

As for PRH tenants who aspire to home ownership, we hope that by resuming the HOS in future and relaxing the restrictions on the secondary HOS market, more choices can be provided to PRH tenants for consideration.

PRESIDENT (in Cantonese): Miss CHAN, has your supplementary question not been answered?

MISS CHAN YUEN-HAN (in Cantonese): *The Secretary has not replied. Given the difficulties faced by the tenants now, can the Government*

PRESIDENT (in Cantonese): Miss CHAN, I have already asked you clearly just now whether you want to ask the Secretary if the authorities will suspend the well-off tenants policy. The Secretary has already given a clear reply. If you have other questions, please wait for your turn again.

MISS CHAN YUEN-HAN (in Cantonese): *Thank you.*

MR WONG KWOK-KIN (in Cantonese): *President, the reply just given by the Secretary on well-off tenants policy is exactly related to one of the major features of the TPS. At present, many so-called well-off tenants are in fact households with grown-up children as just mentioned by the Member. As the authorities only take into account total household income, those households have to pay the rent of well-off tenants because their assets have exceeded the prescribed limit. Moreover, under this policy, random checks are conducted once every two years, causing nuisance to tenants. Hence, many well-off tenants want to buy their own flats through the TPS so as to avoid the trouble of paying double rent or undergoing random checking. However, many well-off tenants are not sitting tenants in the dozens of TPS estates. Therefore, I would like to ask the Secretary: Whether the authorities will study and consider the proposal of giving well-off tenants not living in the existing TPS estates the option to buy PRH flats if they have such a need?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, if PRH tenants not living in the TPS estates aspire to home ownership, they can, for the time being, go to the secondary market and buy HOS flats or TPS flats without payment of premium. In addition, as I mentioned in my main reply, we will put the surplus HOS flats for sale shortly. If tenants in non-TPS

estates want to buy the PRH flats they are living in, our main consideration is that the mixed mode of occupancy in the PRH estates (that is, some are owners while some PRH tenants) will by and large give rise to differential treatment both in terms of management and policy enforcement. Furthermore, we often note that TPS owners and PRH tenants have different attitudes and views in matters relating to management, maintenance, and so on, sometimes conflicts will arise.

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

MR WONG KWOK-KIN (in Cantonese): *The Secretary has not given a clear reply to my supplementary question. The question I put to him just now is very clear, that is, whether the authorities will study the proposal of allowing existing well-off tenants — even those in non-TPS estates — to buy their flats?*

PRESIDENT (in Cantonese): Mr WONG, when you say "buy their flats", do you mean buying the flats they are living in or flats in the TPS estates?

MR WONG KWOK-KIN (in Cantonese): *If agreed by the authorities, both options are fine so long as they can buy back one flat.*

PRESIDENT (in Cantonese): Mr WONG, if you have listened carefully, the Secretary has already answered in detail.

MR WONG KWOK-HING (in Cantonese): *President, as stated in the Secretary's main reply, the HA discontinued the meritorious TPS policy in 2002 without any consultation, as one of "SUEN's nine measures" introduced by the Government to boost the property market in the midst of the financial crisis. While two other factors for consideration were mentioned in the Secretary's main reply, the truth is that the Government debased the TPS as it is no longer necessary to implement the scheme now. As such, I would like to ask the Secretary through the President, under the long-term housing strategy to be*

initiated by the Government, will this meritorious TPS policy be included as one of the long-term housing strategy and will the TPS be reviewed afresh?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, in 2002, having considered the state of the property market as well as various economic factors, the then Government decided that the HA should withdraw from the property sale market as far as possible and discontinued the TPS. That was the consideration at that time. On the other hand, as I just mentioned in the main reply, regarding the further extension of the TPS to other PRH estates, that is, PRH estates other than the 39 TPS estates, the Government has two main considerations in this regard. First, if there are other new TPS estates, the overall supply of PRH may be affected. Second, as I have just mentioned, we have encountered various problems in management, maintenance, and so on. Therefore, the present stance of the Government is that we do not intend to further launch the TPS, but insofar as long-term housing strategy is concerned, we will of course adopt an open attitude. We will certainly listen to the views of all parties under the overriding condition of meeting the housing needs of different groups in the community.

PRESIDENT (in Cantonese): Mr WONG, has your supplementary question not been answered?

MR WONG KWOK-HING (in Cantonese): *President, my question is very clear, that is, whether the authorities will include the TPS as part of its long-term housing strategy review, but the Secretary merely said that it will adopt an open attitude. It seems that he has not answered my question.*

PRESIDENT (in Cantonese): Secretary, can you briefly provide more information?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, my answer is still that, "We will adopt an open attitude." We will adopt an open attitude towards different views in the community, including those

on how the Government can respond to the needs in society through different kinds of housing.

MR CHAN KAM-LAM (in Cantonese): *President, although property prices have spiralled in recent years, members of the general public are keen to acquire home ownership, and PRH tenants are no different. Kaifongs whom we frequently contact during our community visits also urged the Government to resume the sale of PRH flats. However, the Secretary stated in the main reply that there are two factors for considerations, namely the turnover of PRH flats and management problems. In fact, the large turnover of PRH flats as mentioned by the Secretary will only happen with the implementation of HOS or other subsidized housing schemes. Specifically, as only 17 000 HOS flats will be provided over the four years from 2016-2017 onwards, the availability of a large number of PRH flats for re-allocation is unlikely, as there is a particular ratio between green form and white form applicants. In addition, regarding the management problem which is the second factor for consideration mentioned by the Secretary, is the situation really that unsatisfactory? At present, all the 39 TPS estates have formed their own OCs, and the residents are highly concerned about estate management. Can the Secretary tell me, have these estates performed badly in respect of the existing Marking Scheme, littering, and so on?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, allow me to respond to the last point in Mr CHAN's supplementary question first. For the existing TPS estates, there are in fact many problems between TPS owners and PRH tenants on some management and maintenance issues. As a matter of fact, a dedicated Tenants Purchase Scheme Advisory Team was set up by the HA in 2009, that is, three years ago, for a period of two years. The objective was to provide advisory services to TPS OCs on estate management. This reflects that we are highly concerned about the matter, and an advisory term was set to provide dedicated support services.

The question just raised by Mr CHAN is, what can be done to meet the home ownership need of PRH tenants in the interim before the completion of the 17 000 new HOS flats from 2016-2017 onwards? In fact, not only second-hand HOS flats are available on the secondary HOS market now, TPS owners can also put their flats up for sale on this secondary market if they so wish. PRH tenants

with such a need can purchase these flats with premium not yet paid on the secondary market. Basically, the housing need of PRH tenants has been met because they are now living in subsidized housing.

PRESIDENT (in Cantonese): Eight Members are still waiting for their turn. Mr CHAN, has your supplementary question not been answered?

MR CHAN KAM-LAM (in Cantonese): *The Secretary has not answered my question on estate management problems.*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have nothing to add because I have already explained just now that problems actually exist, and the HA has already set up an advisory team to provide support services on estate management. But, after all, the HA is not the party responsible for the management because the relevant OCs have already taken over the day-to-day management of the TPS estates.

PRESIDENT (in Cantonese): This Council has already spent over 22 minutes on this question. As Members asking supplementary questions just now have spent quite some time making statements, I will allow one more question from a Member who has not asked a supplementary question. Mr Tony TSE, please raise the last supplementary question.

MR TONY TSE (in Cantonese): *I would like to follow up on the question just now about estate management because this is indeed a major problem. On average, the HA is the owner of one third of the flats in those 39 TPS estates, but according to the Secretary's reply, the HA does not have information on the number of complaints and requests received regarding estate management. I find this very strange. Although OCs have been formed for the purpose of estate management and the management works are carried out by property management*

agencies, should the HA still have a role to play in respect of participating, showing concern, as well as providing assistance and co-ordination?

PRESIDENT (in Cantonese): What is your supplementary question? Have you asked your question already?

(Mr Tony TSE nodded in agreement)

PRESIDENT (in Cantonese): Secretary, please reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, in fact, as the so-called majority owner, the HA has participated in the OCs. It will also offer advice to OCs on various issues in the day-to-day management and maintenance of the estates. But as the HA is not ultimately responsible for the day-to-day management of the estates, we will not receive the relevant complaints directly. Nonetheless, given the concern expressed by a number of Members just now about the actual problems encountered, I hope that after this meeting, we can get hold of further information to be provided to Members in future.

PRESIDENT (in Cantonese): Fourth question.

Setting up Public Markets

4. **MISS ALICE MAK** (in Cantonese): *President, the former Secretary for Food and Health had stated that there were two main aspects in the government policy on markets: first, to pay close attention to whether or not the provision of public markets was adequate and make every effort to meet public demand in general; and second, to strive to improve market facilities and create a desirable, clean and hygienic business environment for market stall operators on the premise of putting public resources to rational use. In this connection, will the Government inform this Council:*

- (a) *whether the authorities had set up any new public markets in the past three years; if so, of the number of new markets set up each year and their locations; if not, the reasons for that; whether the authorities have any plans at present to set up new markets; if so, of the details; if not, the reasons for that;*
- (b) *whether the authorities will review the existing planning guidelines for new development areas to incorporate the principle of ensuring the public to have appropriate and diversified consumer choices, so as to facilitate consideration of the need to set up public markets in new development areas; if so, of the details; if not, the reasons for that; and*
- (c) *how the authorities assessed the public's demand for public markets in the past; whether the authorities have conducted any survey on the operating environment and commodity prices in various types of markets, so as to ensure that small business operators have room for survival and the public have abundant choices in consumption, thereby reducing the situation of consumers being exploited because of monopoly?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, my consolidated reply to the three parts of the question raised by Miss Alice MAK is given below.

At present, the Food and Environmental Hygiene Department (FEHD) is responsible for managing a total of 102 public markets and cooked food markets, including 77 public markets which mainly provide fresh food and other dry and wet goods, as well as 25 free-standing cooked food markets. Some 14 450 stalls are provided in these public markets with an average occupancy rate of 88.8%.

Historically, the former municipal councils and the FEHD built public markets mainly for the purpose of relocating hawkers from the streets, in the interest of improving environmental hygiene. These markets provided places for residents living nearby to buy daily necessities (particularly fresh food items). The Government has since ceased to issue new hawker licences and now that we are encouraging itinerant hawkers to surrender their licences, the number of

licensed hawkers has been decreasing gradually. As a result, the need to build public markets for the purpose of relocating hawkers has been greatly reduced.

Meanwhile, the number of markets in public and private housing estates as well as the number of retail outlets selling fresh provisions and live seafood in different districts have been growing over the years, while supermarkets have also provided more retail outlets for fresh provision and live seafood. At present, apart from the 2 635 stalls selling fresh provisions and live seafood in public markets, there are up to 2 700 other licensed fresh provision shops and supermarkets. Together, they provide diverse shopping options and choices for consumers.

In its previous reports on the planning and operation of public markets, the Audit Commission pointed out that the Government should, when planning the provision of new public market facilities, consider carefully the question of viability and cost-effectiveness in order to ensure that public resources are put to appropriate and effective use. In 2009, the Planning Department also made revisions to that part of the "Hong Kong Planning Standards and Guidelines" pertaining to the provision of public markets. Under the revised guidelines, it is suggested that apart from the population in the district concerned, other relevant factors should also be taken into account, including demographic mix, community needs, the availability of public and private market facilities nearby, the number of fresh provision retail outlets in the vicinity, and public sentiment towards preservation of hawker areas, and so on.

Having duly considered the various factors mentioned above, the FEHD has not brought in any new public markets over the past three years. Nor is there any plan for a new public market in the pipeline.

The Government will assess as appropriate the need to review the planning standards for the provision of public markets in keeping with present day circumstances and developments.

On improving the operating environment of public markets, the FEHD has in the past three years completed 10 enhancement projects involving a total outlay of over \$170 million. To improve the competitiveness of public markets, the FEHD has also strived to keep the markets clean, thereby providing customers

with a pleasant shopping environment. In addition, promotional activities are held in different markets from time to time to attract patronage.

We now turn to the prices of the goods. Tenants of public markets are free to determine and adjust the prices of their goods having regard to such market forces as supply and demand, as well as their operating costs. The Government does not control the prices of the goods sold in public markets and is not in a position to guarantee that the goods sold in public markets would be cheaper than those in other shops. In fact, according to the Consumer Council's monthly report on market food prices released in November 2010, among the 52 markets covered in the survey, the price indices of 25 markets were higher than the average prices and among them, 20 were public markets under the FEHD's management.

Besides the provision of public markets, it is open to us to consider other options that may help meet the shopping needs of local residents. For instance, having regard to the unique circumstances of Tin Shui Wai, the Government is collaborating with a non-government organization on operating a bazaar in the vicinity of Tin Sau Road in northern Tin Shui Wai. Not only would this provide local residents with an added choice in terms of shopping venue, it would help drive economic growth and create job opportunities in the district. The Government will continue to closely monitor the overall situation including the supply of the respective facilities in various districts and review the relevant policies as and when appropriate.

MISS ALICE MAK (in Cantonese): *President, as we all know, owing to the query raised in the Report of the Director of Audit on the FEHD's policy on markets, the FEHD had made some adjustments in the past few years.*

Report No. 51 of the Director of Audit mentioned that the purposes of providing public markets were first to meet the needs of the community, and second to resite hawkers. However, in the third paragraph of the Secretary's main reply, he said that the purpose was to relocate hawkers from the streets. First, has he overlooked the purpose cited by the Director of Audit, that is, to meet the needs of the community?

Second, in the fifth paragraph of his main reply, the Secretary mentioned the "Hong Kong Planning Standards and Guidelines". Before 2009, the Guidelines provided that for every 10 000 persons there should be 40 to 45 public market stalls or one public market stall for 55 to 65 households. I would like to ask the Secretary: As he has mentioned about reviews in his reply, has the aforesaid criterion been reviewed? Have the figures been changed? If not, why not use these figures, as no new public markets have been set up in the past three years? Are there any changes to the criterion and figures? If so, what are the new figures?

Third

PRESIDENT (in Cantonese): Miss MAK, you have asked three or four questions.

MISS ALICE MAK (in Cantonese): *I have only two questions.*

PRESIDENT (in Cantonese): Please repeat one supplementary question only.

MISS ALICE MAK (in Cantonese): *The first question is*

PRESIDENT (in Cantonese): Miss MAK, you can only ask one question. Please repeat your supplementary question.

MISS ALICE MAK (in Cantonese): *Yes, alright. I only ask one simple question.*

Regarding the planning standards and criteria, Secretary, are there any new figures?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): We do not have new figures. However, as I have mentioned in the main reply, other than relocating hawkers from the streets, we also have to see whether there are sufficient market facilities.

At present, the FEHD has provided 77 public markets which mainly sell fresh food, coupled with 105 markets managed by the Housing Authority (HA) and The Link REIT (The Link), there are altogether 182 markets over the territory, with five to 12 markets in each district. Besides, there are market facilities provided in individual private housing estates that have not been included in the above figures.

On the other hand, there are also a total of over 2 700 licensed retail shops selling fresh provision and live seafood, among which about 70% are owned by individual licensees and 30% are supermarkets or chained stores, which provide more choices for the public. Therefore, we consider that the present market facilities available are sufficient on the whole.

MR LEUNG CHE-CHEUNG (in Cantonese): *President, the Secretary said that currently there is a policy on the provision of public markets. According to the policy, markets will be built only for the purpose of relocating itinerant hawkers or other hawkers from the streets. However, according to our understanding in the past, that was not the only factor for consideration by the Government. There were markets in the housing estates managed by the HA in the past, which were regarded as government markets.*

However, after The Link's acquisition of markets in all public housing estates, there are no public markets in many places. Take Tin Shui Wai as an example. There is not a single public market there. How can local residents get quality market service at lower and more affordable cost? Under such circumstances, will the Government consider setting up a public market in places such as Tin Shui Wai where there is no government market, so as to serve local residents?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I like to provide some more information, the Planning Department amended

the criteria in respect of the planning standards pertaining to the provision of public markets in 2009. Our amendments were not related to a new figure or a new ratio, instead we proposed that apart from the population in the district concerned, other relevant factors should also be taken into account, including demographic mix, community needs, the availability of public and private market facilities nearby, the number of fresh provision retail outlets in the vicinity, and so on.

As regards Tin Shui Wai, I have explained in my main reply some factors to be considered by the Government in deciding whether or not to set up a new public market. To my understanding, the Yuen Long District Council wished to build a public market at the location of Tin Wing Light Rail Station in Tin Shui Wai. We have studied the proposal, but given that there are many markets and shops in the vicinity of Tin Wing Station and the station is also next to a big shopping complex, we considered that providing public market facilities at Tin Wing Station might not be the most cost-effective.

In our view, since there is already a plan to set up a bazaar at Tin Sau Road, we suggest that the District Council should consider the actual operation of Tin Sau Road bazaar before deciding if there is a need to provide other modes of shopping facilities.

DR HELENA WONG (in Cantonese): *President, not only Tin Shui Wai lacks a public market, Lai Chi Kok also has the same problem. When I visit the district, residents of Hoi Lai Estate also complain to me about this situation. Therefore I do not agree with the Secretary that the purpose of providing a market is for hawker control. Actually the community has a great need in this respect.*

There is one other question, while there are 77 public markets over the territory as mentioned by the Secretary, the number of supermarkets have reached 2 700. This is downright monopoly, this is property hegemony encouraged by the Government. The Government often says that nothing about people's livelihood is trivial and that it cares about people's livelihood, yet if housing estates have not been built

PRESIDENT (in Cantonese): Dr WONG, please stop expressing your opinions and raise your supplementary question.

DR HELENA WONG (in Cantonese): *The Government has to review the supply of market facilities. Market facilities should be provided in every district in Hong Kong, so as to meet the needs of the grassroots as well as the middle-class families. My supplementary question is: the Secretary mentioned that though public markets are managed by the Government, the Government will not guarantee that the goods sold in public markets will be cheaper than those sold in other shops. A problem thus arises. Government market should not be profit-driven, and if the Government cannot control the prices through rent adjustments*

PRESIDENT (in Cantonese): Dr WONG, you are still expressing your opinions. Please raise your supplementary question.

DR HELENA WONG (in Cantonese): *My supplementary question is: Has the FEHD considered controlling the prices of goods by adjusting the rents of public market stalls, so as to ensure that residents' basic demand for food can be met?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I have just said, in principle the markets managed by the FEHD are awarded to the operators through tender at the prevailing market price. Although I understand that due to various reasons, the rents of markets managed by the FEHD are currently lower than the market price as the rents have been frozen for several years. However, it is not our policy to influence food prices by means of rental subsidy. According to our policy, we will not manage or control the prices of goods sold in market stalls. Besides, prices are determined by many factors other than rent. Therefore, we cannot in fact guarantee that the prices of goods sold in these markets would be cheaper than those sold in other shops.

MR WU CHI-WAI (in Cantonese): *President, the Secretary mentioned in the main reply that the Government is duty bound to improve the business*

environment of the markets but many markets have not been installed with air-conditioning facilities. I would like to ask, in respect of the policy to set up air-conditioned markets, will the Government take the initiative to carry out the installation work so as to improve the business environment of markets?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, most of the non air-conditioned markets were mainly built in the 1990s or before. As the concept of air conditioning was not included in the construction design of these markets, no complementary facilities had been installed for the provision of air-conditioning systems in future. If air-conditioning systems are to be installed in these markets, plenty of resources are required. Besides, depending on the size of the markets and the complexity of works, the installation costs will amount to hundreds of thousands of dollars in general. The Government has to consider very carefully, so as to ensure the effective use of public money.

Though the installation of air-conditioning systems will help improve the overall environment of markets, according to the past experience of the FEHD, after the installation of air-conditioning systems, markets may not necessarily attract more market stall operators and increase the occupancy rate of stalls. The report of the Audit Department had also pointed out this point. In fact, the occupancy rate of markets is determined by many factors, such as the number of competitors in the vicinity, the demographic change in the district, and so on. The FEHD will adopt different measures to enhance the facilities and competitiveness of markets. As I have mentioned in the main reply earlier, the FEHD has in the past three years completed 10 enhancement projects involving a total outlay of over \$170 million. Of course, in the future if we think that there is a need for some works or installation of more facilities in order to enhance the environment or competitiveness of markets, we will consider.

MR WU CHI-WAI (in Cantonese): *Has the Government abolished the policy of installing air-conditioning systems in markets?*

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

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we have not abolished this policy but there are many practical factors to consider. Even if the Government will bear the installation costs, the tenants still have to bear the future recurrent costs, such as electricity fees, and not every tenant is willing to do so. Therefore, unless we have obtained the consent of over 85% tenants, it will be very difficult to carry out the installation work of air-conditioning systems in markets.

MR ALAN LEONG (in Cantonese): *President, I would like to point out to the Secretary that the Audit Department conducts value for money audits. If new policy objectives of public markets are set, the basis of the value for money audits will be changed.*

The Secretary mentioned Tin Shui Wai in the last paragraph of his main reply. President also knows that Tin Shui Wai is the biggest city walled in by The Link, and local residents are mostly the grassroots. I would like to ask the Secretary on what basis does he believe that the operation of a bazaar in the vicinity of Tin Sau Road can be compared to that of a public market, and that the bazaar can fight against the hegemony of The Link? I really like to ask the Secretary.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I have replied earlier, in order to ensure the effective use of resources, we believe that the setting up of a bazaar in Tin Shui Wai can provide local residents with an additional shopping option. The project is scheduled to be implemented early next year and then the bazaar will begin operation. We think we should first observe the actual operation of the bazaar and see if it can bring benefits, and what benefits can be brought before we consider the next move.

MR ALAN LEONG (in Cantonese): *Has the Secretary already believed that the bazaar will serve the purpose of a public market?*

PRESIDENT (in Cantonese): Secretary, the Member asks whether the authorities have already believed that the bazaar will serve the purpose of a public market.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we have made careful consideration in deciding the location of the bazaar. We choose that location because there are not many markets in the residential area nearby (particularly in northern Tin Shui Wai) to compete with the bazaar. As there are not many markets in that district, the bazaar can fill up the gap. Of course, we cannot say that we are 100% confident that this project would be a success. We will observe its actual operation after the commissioning and review afterwards.

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has assumed the post for a short time, after hearing the views voiced by colleagues from different parties and groups, he would understand the problems concerning wet markets and public markets. On this issue, the views of Members have transcended political parties and groups and we have even fostered a consensus, regarding the factors concerning the shopping needs of residents, the fight against the monopoly of The Link or supermarkets as mentioned by colleagues, or the opportunity for stall operators to do more business, which has not been mentioned by Members, we hope that a balance can be struck.*

Hence, President, one point I wish to remind the Secretary is that besides the issue about air-conditioning as mentioned earlier, I think this whole Council — members of the Panel on Food Safety and Environmental Hygiene have also brought up this issue — wishes that the Government will provide the hardware facilities as soon as possible, so that wet markets can compete with supermarkets. If the Government does not provide those facilities, markets do not have any competitive edge. With a limited volume of goods, it is very hard

PRESIDENT (in Cantonese): What is your supplementary question?

MR TOMMY CHEUNG (in Cantonese): *Therefore my supplementary question is to tell the Secretary not to merely consider the pros and cons of installing air-conditioning facilities. Another point I hope the Secretary will pay attention to — I do not know if he has — is that the management of markets and the sizes of stalls also play a role in determining whether the market is popular and whether people like to patronize. I would like to ask the Secretary whether he will consider the issue of market management and the sizes and design of stalls.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I have said, we will not only consider the air-conditioning of markets, but also consider other factors as well. In the past few years, the FEHD has put in plenty of resources to carry out enhancement projects for the markets currently managed by the FEHD.

PRESIDENT (in Cantonese): Secretary, the Member has specifically mentioned two aspects.

MR TOMMY CHEUNG (in Cantonese): *Market management and stall sizes.*

PRESIDENT (in Cantonese): Secretary, can you respond to the two aspects suggested by the Member that the Government should pay attention to?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): It is rather difficult to answer Mr CHEUNG's second question as it is not easy to change the size of stalls in a market which is already in operation. We will certainly consider this factor if there is a need to build new markets. We also need to consider the overall design of markets. For markets built in the past, their design concept was older. As markets were built on very precious land, they were usually multi-storey buildings in order to save space. However, for multi-storey buildings, fewer people are willing to go to the upper floors. Therefore, even if we purposely build markets for relocating the hawkers from the streets, many hawkers would prefer to remain on the streets in view of the heavy pedestrian flow. Hence, whether markets should be built is one issue but if a market is to be built, I totally agree that there should be an overhaul of the design concept.

PRESIDENT (in Cantonese): This Council has spent over 23 minutes on this question. Fifth question.

English Schools Foundation Nomination Rights Scheme

5. **MR TOMMY CHEUNG** (in Cantonese): *President, the English Schools Foundation (ESF) has introduced a Nomination Rights Scheme (NRS) for nine primary schools, five secondary schools and one special school, which are operated directly by the ESF and subsidized by the Government, at a price of \$500,000 per student and with a quota of 150 for the first year. It is learnt that since parents buying nomination rights will be accorded priority in securing a place in ESF schools for their children, some parents are concerned that the NRS might turn education into pecuniary transactions, thus violating the basic principle of fairness in provision of education. In this connection, will the Government inform this Council:*

- (a) *when the authorities became aware of the ESF's introduction of the NRS for its subsidized schools; whether the ESF has reached a consensus with the Education Bureau and obtained its approval well before implementing the NRS; if so, of the Education Bureau's basis for granting the approval, and whether other government-subsidized schools may also adopt this approach in admitting students in future; if not, what follow-up actions the Education Bureau will take;*
- (b) *given the ESF's claim that the purpose of the NRS is to raise funds for maintenance of facilities in ESF schools and school redevelopment, if the NRS has been approved by the Government, how the authorities will in future urge the ESF to make public the financial position of the income and expenditure of ESF schools, to ensure that the funds raised will be used for the specified purposes; and*
- (c) *following the ESF's introduction of the NRS, whether the authorities will speed up the reduction of subsidies for ESF schools, so as to facilitate the gradual transition of ESF schools to operate under a self-financing mode; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Cantonese): *President, schools operating under the ESF are required to operate in compliance with the Education*

Ordinance and Regulations, the English Schools Foundation Ordinance and the relevant administrative guidelines. Broadly speaking, being autonomous in operation, the ESF may decide on the curriculum offered, student mix as well as admission criteria and arrangements. Our response to the three parts of the question raised by Mr Tommy CHEUNG is as follows:

- (a) We note that most schools in Hong Kong which offer non-local curriculum will usually have raise funds through nomination rights schemes, debentures schemes or capital levy to finance capital developments and enhancement of school facilities for the purpose of meeting the design of their respective curriculum and infrastructural requirements. Some of those schemes are not mandatory and the amount collected would be repaid to parents in full or at the prevailing price when their children leave school.

In May 2012, we note that the ESF would introduce a NRS in October 2012 to replace the existing Corporate Surety Scheme (CSS). Proceeds raised will be exclusively reserved for the funding of capital projects of ESF schools. We understand that during the first month after the NRS opens, priority will be given to: (i) applicants from overseas; and (ii) overseas passport holders currently residing in Hong Kong with conditional terms of stay. The new scheme only covers 150 places across all year groups, which amounts to 2% of the total student population of all ESF schools. Children whose parents have applied for nomination rights will only gain the opportunity for priority placement in an ESF school provided that they meet the admission requirements and pass the interview. Like other schools that provide non-local curriculum, we have requested the ESF to explain the details of the NRS to interested parents and to ensure that they give their consent to and accept the terms before making an application. We apply the same principle to schools offering non-local curriculum when raising funds for capital and infrastructural development.

- (b) Our prevailing practice is to request the ESF to submit their audited accounts to the Education Bureau and to explain its financial position, if required. In fact, the annual audited accounts of the ESF are available on its website for public's reference. The

accounts set out the expenditure and financial position of the ESF in relation to its infrastructure and facilities. Apart from continuing the existing practice of making its annual audited accounts available to the public, to ensure the proceeds under the NRS are used for the designated purpose, we will also request the ESF to clearly set out in its accounts details of the proceeds as well as the financial position including details of the items supported by the proceeds under the NRS.

- (c) The ESF is an established and valued member of our school system. Review of the subvention should be based on a holistic perspective of the entire school system and the position of the ESF therein, taking into account the arrangements for other schools which operate in a like-fashion. We have informed the ESF that the existing recurrent subvention should be phased out gradually. This notwithstanding, we have also reiterated that the subvention review will not prejudice the interests of the existing students before any new subvention arrangement takes effect. In addition, we have indicated to the ESF that in the course of discussing the phasing-out arrangement, we are willing to examine with them the role which the ESF may play in the education sector of Hong Kong and the direction of its future development.

MR TOMMY CHEUNG (in Cantonese): *President, first of all, I have to declare that my three children studied in ESF schools between 1970s and 1990s. You and I had also been members of the ESF School Council as required by law. As I had been in the ESF School Council for eight years, I can understand the difficulties it has to face.*

President, however, I think that the Secretary has failed to respond to a number of points in his reply today. I hope my colleagues can follow up this issue for me. To me, the Secretary's main reply is really bullshit. It gives me the feeling that he is trying to muddle through and confuse the public. In his reply, he kept on talking about "schools which offer non-local curriculum"; but as far as I know, the Government has never used the term "schools which offer non-local curriculum". The schools mentioned in his main reply should be private international schools, and my question today is exactly about those

schools. At present, we provide subventions to the ESF, which means that taxpayers are paying the ESF. In this case, if the Secretary still allows the ESF to sell its school places through nomination rights although it is true that we may not be able to impose harsh regulations on private schools, the Secretary has demonstrated a high degree of favouritism, apart from trying to confuse the public. On the one hand, he is very strict and rigid on the regulation of local schools and curriculum, cutting classes and staff arbitrarily and doing whatever he wants; on the other hand, he is very lenient to the subsidized ESF.

President, I would like to ask the Secretary: does the main reply suggest that he will be lenient to schools as long as they are offering "non-local curriculum"? Or is he only lenient to non-subsided private schools? In the case of the ESF, is the Secretary too lenient? Is it inappropriate for him to do so?

SECRETARY FOR EDUCATION (in Cantonese): President, thank you, Mr CHEUNG. The recurrent government subvention provided to the ESF is for the provision of education services instead of financing capital projects, and we are now conducting a review on the recurrent subvention arrangement. Besides, although the Government has provided the ESF with a capital grant which equals to 100% of the cost for constructing a standard-design public sector school of the same student population, the ESF, like other public schools and Direct Subsidy Scheme schools receiving government capital grants, is allowed to build or extend non-standard facilities, such as additional cinema, theatre, dancing room, supporting facilities for students with special education needs and tutorial centre, at its own expense.

Let me give an example. In the redevelopment of the ESF Kowloon Junior School, the Government had provided the ESF with a grant of \$187 million but this sum was only 44% of the total project cost of \$423 million. As for the remaining 56%, that is, about \$236 million, it was paid by the school itself through fundraising. Another example was that the ESF had borne the total cost of extending the King George V School. Therefore, we should be aware that there is such an arrangement in place to complement the subvention mechanism. As regards the general subvention arrangement, the Legislative Council had a discussion in 2011 which was the basis on which we make the final

decision in the future. I have already mentioned this point in the last part of my main reply.

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

MR TOMMY CHEUNG (in Cantonese): *President, I see you smiling. Perhaps, you also want to raise the supplementary question for me as he has not answered my supplementary question*

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

MR TOMMY CHEUNG (in Cantonese): *President, my supplementary question is indeed very simple. I want to know if the Secretary is acting fairly. In the case of local aided schools which are not offering "non-local curriculum", will the Secretary also allows them to introduce a NRS if the construction costs of school facilities is higher than the capital grants they received? Will he also allow the NRS to cover 2% of their total student population? He has not responded to this point.*

PRESIDENT (in Cantonese): Secretary, the Member is asking whether ESF schools, being aided schools, should be subject to the same strict regulation as other aided schools.

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to Mr CHEUNG for raising this question. I think Mr CHEUNG also clearly knows that we must consider historical factors and the past subvention mode in the process. This is the first point. Secondly, we also want to act upon our principle, that is, when a school stops offering a local curriculum, such as the DSE curriculum, we will have to change its subvention mode. However, it takes time to do so. Thirdly, while the ESF may have its own view on its future development, if it still wants to obtain government subvention, it must figure out

a way to provide a curriculum which can cater local needs. We will continue to negotiate with the ESF's management on this issue.

MR FRANKIE YICK (in Cantonese): *I have to first declare that my two children are now studying in ESF schools. Yet, they are not affected by the NRS under discussion today.*

I would like to ask the Secretary, after the introduction of the NRS, many newspaper critics have focused on one point, that is, while some middle-class people can actually afford the school fee of ESF schools, the ESF now gives priority to allocating places to those who can afford to pay \$500,000; is it depriving the opportunities of middle-class families which are not so well-off? I would like to hear the Secretary's response to this issue.

SECRETARY FOR EDUCATION (in Cantonese): President, thanks to Mr YICK for raising this question. The new scheme in question only covers 2% of all ESF's school places and it is part of the process of changing the subvention scheme. In addition, this scheme is mainly targeted at overseas families which will come to stay or invest in Hong Kong. During the first month when applications are accepted under the NRS, priority will be given to applicants from overseas and overseas passport holders currently residing in Hong Kong with conditional terms of stay. Therefore, the new scheme has clear targets, and it is an arrangement mainly designed for some specified categories of people.

PRESIDENT (in Cantonese): Mr YICK, has your supplementary question not been answered?

MR FRANKIE YICK (in Cantonese): *President, I do not think the Secretary has answered my question because I was saying that, as we all know, at present, Hong Kong's*

PRESIDENT (in Cantonese): Please keep it short when repeating your supplementary question.

MR FRANKIE YICK (in Cantonese): *My question for the Secretary is: will the new scheme deprive local middle-class families of their rights to send their children to study in ESF schools?*

PRESIDENT (in Cantonese): Secretary, can you please explain briefly whether children of middle-class families will be deprived of the chance to study in these schools?

SECRETARY FOR EDUCATION (in Cantonese): President, in Hong Kong, various schools which are similar in nature as ESF schools have introduced similar arrangement. Parents will usually make their decisions based on their choices, financial ability, as well as some other personal and family factors. The new scheme is specially targeted at three categories of people mentioned above and involves only a small number (that is, less than 2%) of the total school places. The second point, which is important, is that the ESF is required to make a clear explanation of the background of the scheme when any parents make their applications or enquires. This is the special demand that we make to the ESF. Therefore, all applicants or parents will be informed of the scheme's features.

MR LEUNG KWOK-HUNG (in Cantonese): *President, this is the first time that I meet Secretary NG. I have really learnt from him. As an adage goes, being shameless, it is useless to be thrifty⁽¹⁾*

PRESIDENT (in Cantonese): Mr LEUNG, please refrain from making comments and raise your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *Can't I even make a quote? You yourself also make quotes sometimes. As an adage goes, being shameless, it is useless to be thrifty. It means that there is no use for a person to be thrifty or hardworking if he is shameless.*

(1) The Chinese translation of thrifty is "克儉", which is the Chinese given name of Secretary Eddie NG.

PRESIDENT (in Cantonese): Mr LEUNG, please raise your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *Therefore, legislators must not be so shameless. In fact, no one should be shameless. The answer he just gave is the best illustration of this point. He said "only 2%". Is 2% not a privilege? President, I live in Kowloon Bay and there is an ESF school. The school building is very high and was constructed with a funding of more than \$1 billion approved by the Finance Committee. I remember Mr Tommy CHEUNG had asked angrily why the construction project had to be subsidized. Worse still, after giving a grant, the Government even allows people to use money, the dirtiest thing in the world, to buy a privilege. For children of expatriates who have no choice but to study in ESF schools after coming to Hong Kong, I do not object them enrolling in these schools. But the problem now is that people are allowed to buy school places with money. It is not even fair to expatriates. What should they do if they do not have \$500,000? Is education not based on students' talents?*

PRESIDENT (in Cantonese): Mr LEUNG, you have already made your comments.

MR LEUNG KWOK-HUNG (in Cantonese): *Is education now based on wealth? Therefore, his answer is meaningless; 2% is also a privilege. Will he recognize that this is a privilege? Why does the Government allow privileges? Is it because the Government itself is a privileged class so that it allows privileges? Is it because birds of the same feather flock together?*

PRESIDENT (in Cantonese): Mr LEUNG, if you have already raised your supplementary question, please sit down and let the Secretary answer.

MR LEUNG KWOK-HUNG (in Cantonese): *Being shameless, it is useless to be thrifty.*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down.

SECRETARY FOR EDUCATION (in Cantonese): I emphasize once again that this scheme is specially designed for the three specified categories of people since some of them cannot be covered by the existing CSS. At present, the CSS only applies to corporations; therefore, those three categories of people may not be able to apply for enrollment. Meanwhile, the CSS does not fit in with the admission schedule. We know that there is such a new scheme, but the ESF has its own autonomy and the Education Bureau has to abide by the relevant legislation. We have already asked the ESF to clearly inform stakeholders of any new scheme to be implemented.

I know that you are concerned about the so-called "privilege" issue. In view of this, we will take expeditious action to change the subvention mode so as to allay this concern. Yet, it is something left by history and hence it takes time for us to fix it.

MR LEUNG KWOK-HUNG (in Cantonese): *President, he has not answered my question. I asked him whether this was a privilege and he answered in the affirmative. I asked him whether it was even worse to get this by money, he said it was a problem left behind by history. This Council is also something left behind by history though its Chinese name has changed Since 1842, the history has left behind*

PRESIDENT (in Cantonese): Mr LEUNG, you have already elaborated your points clearly. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *The history since 1842 has left behind*

PRESIDENT (in Cantonese): Mr LEUNG, there are still a number of Members waiting for their turns.

MR LEUNG KWOK-HUNG (in Cantonese): *Okay, I understand. Then, there is nothing that I can do. If he cannot answer this kind of common sense questions, how can he introduce national education?*

PRESIDENT (in Cantonese): Please refrain from making any further comments.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, I understand. There is nothing that I can do. If he cannot answer this kind of common sense questions, how can he introduce national education?*

MS CLAUDIA MO: *I quite agree that you have completely failed to answer the three previous questions. So, you cannot use history to address questions of fairness, on fairness. But then I am not going to repeat the question because I am just going to get your diplomatic and bureaucratic answer once again. Never mind, I do have a separate question. Many, many Hong Kong parents would want to send their children to ESF schools, international schools for a Western-style English language-oriented education. In fact, in effect as well, it is a vote of no confidence on the local education system under which our English language teaching has proved quite a failure. Sir, this is obvious from the declining level of proficiency.*

Would your Bureau actually consider revamping our English teaching policy, approach and everything you can do to help ease the situation. Forget about the unpleasant, if not nasty, associations about nomination right, debentures, and so on.

PRESIDENT (in Cantonese): Secretary, please answer.

SECRETARY FOR EDUCATION: Thank you, the Honourable Member, for the question. There are two parts on the subject. The first part relates to the English standard. Let me address that firstly.

The SCOLAR, the Standing Committee on Language Education and Research, has already launched two pilot studies to review and find ways to improve the English teaching exercise. I personally attended a couple of the events they organized recently on a pilot basis to look at the activity-based learning as a subject and living English type. Those pilot events will be coming on stream pretty soon with the final report to be produced by the SCOLAR, and then, with that in mind, we look forward to further way of improving the teaching and learning on the language of English. So that is the first part.

As regards the second part, concerning parents sending their kids to international schools, honestly, if you look at what is happening in Singapore and other places as well, they also have local parents sending their kids to international schools, and that is why international schools are always a universal issue. And this is another way to show the different choices available to parents.

I do recognize that there is always a comparison. If you look at the new academic structure from the IB and other perspectives, the DSE is actually one way to improve learning diversity as well as the self-driven learning process. So this would be very much for the first one.

The second one. Let me come back to the Honourable Member's mentioning about the subject of privilege. Let me reassure you, one of the major reasons as we understand from the ESF, is that they do need the capital funding to launch certain expansion and repair maintenance work for the school. For that reason, they do need the Scheme in order to build up that particular capital funding. One of the reasons for that is they are responsible for their own finance and need to keep the financial health of the ESF.

PRESIDENT (in Cantonese): This Council has spent almost 23 minutes on this question. Ms MO, if you have got a different view, please follow up on other occasions. Last question seeking an oral reply.

Development of Banking Industry

6. **MR NG LEUNG-SING** (in Cantonese): *President, Hong Kong has developed into a major international financial centre in recent years, and the*

financial services industry has become the second largest pillar of the economy of Hong Kong. In this connection, will the Government inform this Council of:

- (a) the value added of the banking industry, including licensed banks, restricted licence banks and deposit-taking companies, and its percentage in the Gross Domestic Product (GDP) in each of the past three years;*
- (b) the respective percentages of employment in the banking industry in the working population and the total employment of Hong Kong in the past three years; and*
- (c) its concrete plans on the development of the banking industry for the consideration of the to-be-established Financial Services Development Council (FSDC)?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Hong Kong is the world's ninth and Asia's third largest international banking centre, and the sixth largest centre for foreign exchange trading. As at the end of September this year, 70 of the world's 100 top banks have operations in Hong Kong. The banking industry is indeed an important pillar to support the financial services industry and the real economy in Hong Kong. The Administration's reply to the question raised by Mr NG is as follows:

- (a) According to published statistics, the value added of the local banking industry amounted to HK\$157 billion in 2010, accounting for 9% of the GDP at basic prices. The value added in 2009 and 2008 were HK\$147.8 billion and HK\$157.7 billion respectively, accounting for 9.3% and 9.7% of our GDP in the respective year.
- (b) In 2011, the banking industry employed about 96 300 people, accounting for 2.7% of the total employment. The employment of the banking industry in 2010 and 2009 numbered about 91 700 and 92 700 respectively, accounting for 2.6% and 2.7% of the total employment in the respective year.

- (c) The Preparatory Task Force on the FSDC (the Preparatory Task Force) is actively studying matters in relation to the establishment of the FSDC. The Preparatory Task Force has consulted industry players extensively, drawing reference from overseas models and experiences, and taking into account the unique needs of Hong Kong's financial services industry, with a view to submitting a report to the Chief Executive shortly on its recommendations regarding the positioning, terms of reference, governance structure and *modus operandi* of the future FSDC. The Administration will announce its decision on the arrangements for establishing the FSDC after considering the report.

As shown in the Administration's reply in parts (a) and (b), the financial services industry, including the banking sector, is an important pillar of Hong Kong's economy. It also creates a lot of job opportunities. In view of this, responses collected during the consultation towards the proposal to set up the FSDC from financial services industry players, including those from the banking sector, are generally positive and supportive. They have also offered concrete and specific views and suggestions on the future directions of the work of the FSDC. The industry is of the general view that the key role of the FSDC is to provide advice to the Administration, with a view to enhancing the competitiveness of the local financial services industry and further developing Hong Kong's financial markets. These views and suggestions will be forwarded to the future FSDC for consideration. We trust that the future FSDC will provide a useful platform for representatives from various financial services sectors to provide the Administration with practicable suggestions in respect of measures for the sustainable development of Hong Kong's financial services industry.

MR NG LEUNG-SING (in Cantonese): *President, regarding the response made by the Government just now, I would like to welcome on behalf of my sector the establishment of the FSDC with foresight while the global financial turmoil is still sweeping across the world.*

Here I wish to put a follow-up question to the Government. After the FSDC is established, will the Government set up some target figures in the light

of the future development, so as to facilitate growth and development of the financial industry, GDP and working population in the coming years?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr NG for his follow-up question. As Mr NG has just said, the European debt crisis and the global financial turmoil have still not subsided, but since where there is crisis, there will also be opportunities, one of the reasons for the proposal to set up the FSDC is to explore how to enable the industry in Hong Kong to make good use of the development opportunities.

As for the question on whether, upon the establishment of the FSDC, more specific targets will be set to prescribe that the development of the financial industry should attain a certain percentage of the GDP or the number of people employed should reach a certain number, I believe it will be difficult to plan and draw up such targets. Nevertheless, as shown by the data mentioned just now, the value added of the banking industry alone already accounted for 9% of the GDP, while the percentage taken up by the whole financial industry amounted to 16%, representing a substantial growth when compared to the 12% to 13% a decade ago. We are also aware that apart from this, the industry has employed a vast number of people, constituting a top-notch working population with high production value. On the basis of such perception and development, we believe in the global competitiveness of the industry. For this reason, we must at least facilitate the industry to sustain and further enhance its development.

MR MA FUNG-KWOK (in Cantonese): *President, the Government mentioned in its main reply that Hong Kong is Asia's third largest international banking centre as well as the sixth largest centre for foreign exchange trading in the world. As far as I understand it, international financial centres bear a very important feature, which is the existence of a mature bond market. However, the bond market in Hong Kong seems to lag behind and is slow in development.*

May I ask how the Government will give consideration in this regard after the establishment of the new FSDC? As bonds is an investment tool whose risk is relatively easy to grasp, what is the Government's view on this? Or does it know if Hong Kong's bond market holds any international ranking?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr MA for his question. The development of the bond market has always been an important development objective of the Special Administrative Region Government and the Monetary Authority (HKMA). We have also noted that, apart from raising funds through listing and making arrangements with banks, if a company has an additional channel of financing through issuing bonds, its financing arrangements will be more balanced, and its financing activities will not be aborted due to sudden impact from the stock market.

In view of this, the Government has in fact set up the Bond Fund for the issuance of government bonds and bonds are issued on a regular basis. Besides, with the development of the Renminbi business, we have made remarkable achievement in "Dim Sum Bond". At present, Renminbi-denominated bonds are in no way inferior to those denominated in other Asian currencies in terms of their scale of issuance.

I believe that the FSDC to be established in the future will seek to carry forward the said direction of development and examine how the existing market facilities, development policies or regulatory measures can tie in to facilitate greater development of the local bond market.

MR SIN CHUNG-KAI (in Cantonese): *President, in Hong Kong there are a number of exchange companies, the HKMA, the Securities and Futures Commission, the Mandatory Provident Fund Schemes Authority, regulators for the insurance industry I may have missed out some others. Of course, the Government has also set up the Financial Services and the Treasury Bureau and the Financial Secretary's Office. How can the establishment of an additional FSDC, other than the numerous financial regulatory authorities mentioned above, avoid duplication of efforts and fragmentation of responsibilities? Will such an organization become a knife placed above the various regulatory authorities for the purpose of holding back such authorities?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr SIN for his question. I am very glad to have the opportunity to answer a valid question which has been asked frequently.

As a matter of fact, the functions of the FSDC will not duplicate with any of those of the regulatory authorities as well as the Financial Services and the Treasury Bureau cited by the Honourable Member just now, since it does not have any statutory power to formulate policies, enforce policies or map out regulatory measures. The FSDC is basically an advisory framework, but we hope that in the future it will play a role which is more cross-sector when compared to the other advisory bodies, enabling different industry players to contribute their efforts in the Council and offer advice on government policies, regulatory measures or new development directions to the Government. Hence, the FSDC itself is an advisory framework which does not have the power to enforce policies.

MR DENNIS KWOK (in Cantonese): *President, the Government has just mentioned in its reply that the Preparatory Task Force is actively conducting a study on how to establish the FSDC, with a view to enhancing the competitiveness of Hong Kong's financial services industry. In this regard, I would like to ask whether the Preparatory Task Force has concurrently taken into account the professional services relating to the financial services industry, such as legal and accounting services, as well as matters in relation to the financial services industry in the information technology sector. Will the Preparatory Task Force or the upcoming FSDC also take into account issues relating to the financial services industry or development opportunities in these industries?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank the Honourable Member for raising the question. The various professional services provided to the financial services industry as mentioned by the Member, including accounting and legal services, are highly important. This group of professionals who provide professional services to the financial services industry is an important part which the industry counts on in its development. As a result, during the consultation process, we have also invited the Hong Kong Institute of Certified Public Accountants and relevant professional bodies to the consultation meetings. Among the views they have offered, a proposal which we have especially given serious consideration and which we hope the future FSDC will follow up is to conduct a study on manpower development, including how to raise their professional standard with manpower training and how to strengthen and enhance their accreditation, as well

as collaboration with tertiary institutions to explore the provision of relevant training on accreditation in their programmes.

During the consultation process, these professional bodies have also given their views on how to put more efforts on mutual recognition of qualifications with the Mainland. Thus, as I have said in my previous reply, the FSDC does not only focus on raising the share of the industry in the GDP but also aim at providing more employment opportunities, further enhancing the quality of the employment population and bringing forth bigger economic growth in Hong Kong.

MR DENNIS KWOK (in Cantonese): *President, I would like to seek a simple clarification*

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

MR DENNIS KWOK (in Cantonese): *Do the professional bodies mentioned just now include The Law Society of Hong Kong? I mean the part concerning the consultation work.*

PRESIDENT (in Cantonese): Secretary, can you clarify?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I do not have a detailed list of the bodies being consulted at hand. As far as I remember, we have consulted more than 40 professional bodies. As regards whether The Law Society of Hong Kong has been consulted, please allow me to provide the supplementary information later. (Appendix I)

MR MARTIN LIAO (in Cantonese): *President, Hong Kong's financial services industry has all along engaged in exchanges and co-operation with that of Taiwan, and in recent years, Taiwan has also launched its offshore Renminbi business. Has the Government adopted any measures to strengthen further*

exchanges and co-operation of the financial industry between Hong Kong and Taiwan?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr LIAO for his question. With regard to financial and economic matters, we have an established platform and a mechanism for exchanges with Taiwan. I once participated in a delegation led by the Financial Secretary to visit Taiwan and discussed with the local people how to further enhance mutual communication. One of the tasks of the delegation was to sign a Memorandum of Understanding with the regulatory authority in Taiwan to further enhance co-operation in regulating the insurance industry.

During this process, I had also given a talk in Taiwan to introduce the development of the Renminbi business in Hong Kong. Besides, Taiwan has just made arrangements with the Mainland on the Clearing Agreement so that Taiwan will be able to develop Renminbi business through settlement of trade transactions in the future. Since both places have developed offshore Renminbi business, we will continue to communicate with the Taiwan authorities to examine how to facilitate capital flow in Renminbi across the two places through interbank lending and transactions of products. Since business development in this regard does not require two separate markets, it will be better if there can be capital flow between the two places.

MR ALBERT CHAN (in Cantonese): *President, in respect of the study conducted, banking services are basically divided into two types which are, to a certain extent, contradictory and in conflict with each other. The first type is basic services. In recent years, a number of banks have been closing their branches at the district level, causing inconvenience to many members of the public. The second type is investment services which involve profound knowledge and long-term planning. In conducting the study and division of labour in the future, will the Administration also review the present inadequacies of Hong Kong's banking industry in this regard, such as insufficient branches in districts causing inconvenience to members of the public, and monitor the banks' practice of taking advantage of their relationship with users of banking services to mislead investors into making investments without knowing the details?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank the Honourable Member for raising the question. The proposal to set up the FSDC is to use it as a cross-sector platform. It does not only belong to the industry. All market participants are also welcome to take part at the same time. Hence, the concerns raised by the Honourable Member just now are covered as well. Being members of the public and bank clients, they will be entitled to participate, and we hope they will participate in the process to relay their concerns in this respect. Therefore, concerning the several points brought up by the Honourable Member just now, for example, whether the basic banking services are sufficient, and whether the banks have provided enough protection to investors in their investment services, I consider that they fall under the scope of proposals about how to further enhance the banking services in the future, which can be put forward and discussed.

MR CHARLES PETER MOK (in Cantonese): *President, I deeply concur with what Mr Dennis KWOK has mentioned earlier concerning the contribution of the professional sectors towards the financial services industry. His question has covered the legal, accountancy and information technology sectors, but the Secretary has omitted the information technology sector in her reply, and the Administration probably has not consulted us either. Actually, among the some 96 000 people engaged in the banking industry, I believe a vast majority of them are responsible for information and technology affairs. Yet regrettably, every time there is redundancy, usually we are the first group of people to suffer the misfortune. May I ask, with regard to the consultation work conducted by the Preparatory Task Force for the establishment of the new FSDC, can the Secretary promise the organizations in the IT sector that we will be included in its consultation?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I find Mr MOK's proposal rather reasonable. In fact, the development of the financial market can never depart from the IT sector, in particular, the smooth operations of financial services provided online or on transaction platforms rely very much on whether there is advanced information and technology and whether such infrastructure functions well. Hence, we will accept Mr MOK's proposal to include the IT sector represented by Mr MOK during the consultation process.

MR PAUL TSE (in Cantonese): *President, as stated in parts (a) and (b) of the main reply, the percentages taken up by the employment in the banking industry in Hong Kong's total population were respectively 2.7%, 2.6% and 2.7% in the past three years, which seem to be relatively steady with no big changes. On the contrary, the value added in the banking industry from 2008 to 2010 accounted for 9.7%, 9.3% and 9% of the GDP in the respective year, indicating a declining trend. I would like to know if the Administration has reviewed the causes for such a declining trend and what remedies are available.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Actually this net value is often calculated by the market value, and the value added may be affected by the global environment, that is, the global economy. For this reason, if there is no big change in the number of people employed as mentioned by the Honourable Member, any increase in the numerical value may represent an increase in each person's production value. Hence, there may not be a direct relationship in this regard.

PRESIDENT (in Cantonese): Mr TSE, has your supplementary question not been answered?

MR PAUL TSE (in Cantonese): *This is not too clear. I would like to know, when the working population remains unchanged while the proportion in the GDP has declined, is there any trend or reason for which we should be concerned about? Is there the need to make any change?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I believe that the main reason is the change in the economic environment. As we can imagine, following the financial tsunami in 2008, the growth in loans would inevitably reduce drastically. Of course, there should be a bigger rise in the figures in 2010, but actually the change on the whole was not so serious that we need not worry too much, since the relevant figures would certainly be subject to economic cycles and external situations.

PRESIDENT (in Cantonese): This Council has spent 24 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Discontinuation of Broadcasting Services by Digital Broadcasting Corporation Hong Kong Limited**

7. **MR LEUNG KWOK-HUNG** (in Chinese): *President, quite a number of members of the public and overseas Chinese have complained to me that while the Government puts in great efforts to promote digital audio broadcasting (DAB) on the one hand, it has earlier looked on with folded arms the disagreement among the shareholders of Digital Broadcasting Corporation Hong Kong Limited (DBC) on the other hand, resulting in DBC once discontinuing its broadcasting services which affected quite a number of members of the public. In this connection, will the Government honestly inform this Council:*

- (a) *given that the Government informed this Council on 17 October this year that it was aware of the disagreement among the shareholders of DBC and it had followed up closely on the developments, of the contents of the disagreement; and whether it has examined if DBC and its shareholders had breached the licensing conditions or legislation in the aforesaid incident; if it has, of the results;*
- (b) *as the Government has indicated that the Commerce and Economic Development Bureau had twice written to DBC for clarification on media reports on the aforesaid incident, whether it can provide copies or contents of these letters;*
- (c) *given that the Government has indicated that the Commerce and Economic Development Bureau had met with DBC management for more than once, of the number of meetings held between the Commerce and Economic Development Bureau and DBC management on the aforesaid incident and the details (set out in the table below);*

<i>Date</i>	<i>Time</i>	<i>Meeting venue</i>	<i>Name of management staff</i>	<i>Officials in charge</i>	<i>Discussion contents</i>	<i>Results</i>

- (d) *whether the shareholders of DBC have given any undertaking to the Government in applying for the licence and whether they are required to comply with any licensing conditions; if so, whether the Government has required each shareholder that they must fulfil their undertakings and comply with the licensing conditions, as well as explained to them the legal consequences they have to bear personally of their failure to fulfil their undertakings and comply with the licensing conditions; if so, when it has done so; if not, of the shareholders whom the Government has not yet been successful in contacting and the number of those who have refused to co-operate;*
- (e) *whether the Government has critically examined DBC's financial capability before granting a licence to it; if so, whether it has assessed the reasons why DBC still defaulted on employees' wages or service fees; if not, why the Government had then refused to grant a radio licence to Citizens' Radio on the ground of its financial capability;*
- (f) *whether, by making reference to the practices of handling the closing down of the Commercial Television and the telecast of the London 2012 Olympic Games, the Government will immediately intervene in DBC's discontinuation of broadcasting services, so as to enable members of the public in Hong Kong and overseas Chinese to continue to listen to DBC's programmes; if so, when and how it will do so; if not, of the reasons for that;*
- (g) *as it was reported on 17 October this year that a DBC shareholder had successfully applied to the High Court for appointing an accounting firm as the interim receiver of DBC, whether the Government has reflected to the accounting firm immediately that DBC must comply with the licensing conditions and continue to provide broadcasting services; if so, when it has done so; if not, of the reasons for that;*
- (h) *whether the Secretary for Commerce and Economic Development has taken any actions to effectively make DBC continue broadcasting; if so, of the contents and effects of such actions; if not, the reasons for that;*

- (i) *whether the Chief Executive or the Chief Secretary for Administration has requested the Secretary for Commerce and Economic Development to intervene in DBC's discontinuation of broadcasting services or stopped him from doing so; if so, when he or she has done so; if not, of the reasons for that;*
- (j) *whether the Government will provide, on the ground of DBC's discontinuation of broadcasting services, pecuniary compensation to those members of the public who have bought digital radio sets in response to the Government's publicity on the promotion of DAB and out of their preference to listen to DBC's programmes;*
- (k) *whether the Government has assessed the impact of DBC's discontinuation of broadcasting services on those members of the public and overseas Chinese who listen to its programmes every day;*
- (l) *given that quite a number of members of the public have indicated that they have requested, through Facebook, fax, telephone and email, the Secretary for Commerce and Economic Development to intervene in the aforesaid discontinuation of broadcasting services and ensure that DBC will continue to broadcast, but the Secretary for Commerce and Economic Development has made no response so far, whether the Government will arrange for the Secretary for Commerce and Economic Development to meet with and respond to all the complaining members of the public in person, so as to respond to the Chief Executive's advocacy of politically appointed officials visiting various districts more to listen to the views of the public; if it will, when it will make the arrangement; if not, of the reasons for that; and*
- (m) *whether it has assessed if the discontinuation of broadcasting services was the result of the Secretary for Commerce and Economic Development's failure to monitor DBC properly; if the assessment result is in the affirmative, whether it will hold the Secretary for Commerce and Economic Development politically accountable and require him to step down; if it will, when the Secretary for Commerce and Economic Development will step down; if not, of the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in the absence of Secretary for Commerce and Economic Development) (in Chinese): President, in March 2011, the Chief Executive in Council granted DBC, Metro Broadcast Corporation Limited and Phoenix U Radio Limited sound broadcasting licences to provide DAB services. The three commercial broadcasters, together with Radio Television Hong Kong (RTHK), provide a total of 18 DAB channels in phases. As an independent statutory regulatory body, the Communications Authority (CA) is responsible for monitoring the licensees' compliance with the requirements of the relevant legislation and licence conditions.

The sound broadcasting licences of the three commercial operators require them to formally launch their service within 18 months after the licence grant date (that is, by 21 September 2012). In the licence of DBC, the company is required to provide seven 24-hour programme channels (including a "Talk Radio" Channel, an Ethnic Minorities Channel and two Music Channels, and three other channels which can be a News and Market Update Channel, Leisure Life Channel, Community Channel or Music Channel) at its formal launch. DBC soft launched its services in August 2011 and had formally launched its services in September 2012 as required by the licence.

My reply to the 13-part question is as follows:

(a) to (c)

The media first reported in late July that a dispute had arisen among the shareholders of DBC over the injection of capital, leading to a lack of working capital. Subsequently, the Commerce and Economic Development Bureau met with the management of DBC at their request on 27 July 2012 and 26 September 2012 respectively. The management of the company mentioned to the Bureau in the meetings that the shareholders of the company had disputed on the injection of capital. Details on the abovementioned meetings are set out at Annex.

According to the licence of DBC, the company shall provide seven channels and broadcast 24 hours a day. As DBC had ceased service earlier from 8 pm, 10 October 2012 to 7 am, 15 October 2012, there

is *prima facie* evidence it might constitute a contravention of licence condition. DBC had subsequently resumed broadcasting on 15 October 2012. The Office of the Communications Authority (OFCA) had written to DBC on 10, 12, 15, 18 and 19 October 2012 to request the company to provide details or representations on matters relating to the cessation or resumption of service. Separately, as the broadcasting service of DBC was limited to the playing of music or rerun programmes from around 11 pm on 21 October 2012, the OFCA had written to DBC on 22 October 2012 to request for an explanation. The OFCA received on 25 October 2012 a reply from the interim receiver of DBC, applying to the CA for permission to play only music or rerun programmes in seven channels in 60 days beginning from 21 October 2012, so that it may resolve the problem of lack of capital. The CA will discuss the application shortly.

(d) and (e)

As regards the total amount of investment of DBC, its licence has only contained conditions regulating the total investment by the licensee (that is, DBC) during the period of 2011 to 2017. The investment commitments of individual shareholders to the company are beyond the regulatory scope of the licence conditions and should be handled by the licence-holding company on its own. According to information available, the amount of capital provided by DBC shareholders as of February 2012 had exceeded the planned investment on capital expenditure and programme expenditure for the first year as committed by the company.

The former Broadcasting Authority (former BA) had examined the financial soundness of DBC before recommending to the Chief Executive in Council to grant a licence to the company, and the company also submitted that it had secured funding of over \$100 million from its shareholders. The former BA had therefore no reason to doubt the financial strengths of DBC. Should there be any problems on matters relating to the payment by the company of its employees' wages or service fees, it should be settled according to the relevant legislation or through legal means.

- (f) The Government and the CA has all along respected the independent operation and editorial independence of broadcasting licensees, and acted according to the regulatory regime. Broadcasting licensees are obliged to comply with the relevant laws, licensing conditions or codes of practice, and the Government would not interfere in the internal matters of licensed companies. Against this background, the Government has all along maintained close contact with the management of DBC, and monitored the company in its compliance with the Telecommunications Ordinance (TO) (Cap. 106) and licence conditions. Matters relating to the Commercial Television Limited and the telecast of the London 2012 Olympic Games are completely different from the DBC incident in nature and circumstances and a direct comparison cannot be drawn.

(g) to (i)

The media reported on 17 October 2012 that a shareholder of DBC had successfully applied to the High Court for appointing Deloitte Touche Tohmatsu as the interim receiver of DBC. The Bureau contacted DBC on the same day and confirmed the appointment of the accounting firm as interim receiver. After DBC has been taken over by the interim receiver, the Bureau and the OFCA have written to the company to ascertain any impact on the company's operation arising from the appointment of interim receiver. The authorities will continue to follow up on developments with the interim receiver, keep a close watch on the compliance of DBC of its licence condition and the TO, and take follow up actions in accordance with the law. It is the Government's position that it would be inappropriate to interfere with the internal operation of broadcasting companies, nor to play the role of commercial mediator to resolve disagreements among shareholders.

(j) and (k)

We understand that the recent disagreement among shareholders of DBC has resulted in operational problems in the company and has affected the DAB service, in particular the listeners of DBC's programmes. We hope that the shareholders of DBC can resolve

their disagreement in a pragmatic manner. In any event, RTHK and the other two commercial broadcasters are currently providing DAB service according to their plan or licence requirements. Apart from the current eight programme channels which have been formally launched by these operators, the total number of programme channels will progressively increase to 11. DAB radios sold in the market can receive these programme channels and the question of compensation by the Government does not exist. We hope that the audience will give time and space for this new service to continue to develop.

(l) and (m)

The Commerce and Economic Development Bureau and the OFCA have received complaints and enquiries on the DBC incident. The authorities have arranged to reply as soon as possible, and the Secretary for Commerce and Economic Development has uploaded the response of the Government to this incident onto the Facebook. To keep the public informed of developments and the follow up actions of the Government, the authorities have issued press releases on the matter for a number of times. The Secretary for Commerce and Economic Development has also responded to the matter by meeting the media and explained the follow up actions of the Government at interviews and radio phone-in programmes on 10 and 11 October 2012. The Bureau has explained in detail the incident and the Government's stance and follow up actions taken at the meeting of the Legislative Council Panel on Information Technology and Broadcasting held on 26 October 2012. As mentioned above, the incident was caused by the disagreement among shareholders over the injection of capital which led to a lack of working capital. It is the responsibility of a broadcasting licensee to properly manage its internal affairs. The Government has all along closely followed up on developments from a regulatory angle and kept a close watch on the compliance of DBC of its licence condition and the TO. As such, the government authorities have all along been carrying out their regulatory responsibilities in an appropriate and conscientious manner.

Annex

<i>Date</i>	<i>Time</i>	<i>Meeting venue</i>	<i>Name of management staff</i>	<i>Officials in charge</i>	<i>Discussion contents</i>	<i>Results</i>
27 July 2012	am	Office of the Commerce and Economic Development Bureau	Founder, President and Editor-in-chief of DBC; Chief Executive Officer of DBC	Acting Deputy Secretary for Commerce and Economic Development (Communications and Technology); Assistant Secretary for Commerce and Economic Development (Communications and Technology)	The management of DBC mentioned the disagreement of shareholders on injection of capital. The Commerce and Economic Development Bureau reminded DBC to comply with the relevant statutes and licence conditions.	Reminded the management of DBC the relevant statutes and licence requirements, and set out the stance of the Government.
26 September 2012	pm	Office of the Commerce and Economic Development Bureau	Founder, President and Editor-in-chief of DBC; Chief Executive Officer of DBC	Secretary for Commerce and Economic Development; Administrative Assistant to Secretary for Commerce and Economic Development; Deputy Secretary for Commerce and Economic Development (Communications and Technology); Principal Assistant Secretary for Commerce and Economic Development (Communications and Technology)	The management of DBC mentioned the disagreement of shareholders on injection of capital. The Commerce and Economic Development Bureau reminded DBC to comply with the relevant statutes and licence conditions, and made it clear that it was inappropriate for the Government to intervene in the disagreements among shareholders of a private company.	

Residential Development in North East New Territories New Development Areas

8. **MR ALAN LEONG** (in Chinese): *President, the Development Bureau had submitted to this Council consultation documents on the North East New Territories (NENT) New Development Areas (NDAs) (including the three NDAs of Kwu Tung North, Fan Ling North and Ping Che/Ta Kwu Ling) Planning and Engineering Study (the Study) at each of the three consultation stages. The total areas and the developable areas of the NDAs set out in those documents were different: (i) in the document submitted on 25 November 2008, the aforesaid land areas were 1 000 and 775 hectares respectively; (ii) such areas were reduced to 805 and 620 hectares respectively in the document submitted on 24 November 2009; and (iii) in the document submitted on 28 June 2012, such areas were further reduced to 787 and 533 hectares respectively. In this connection, will the Government inform this Council:*

- (a) *of the reasons for making each amendment to the total areas and the developable areas; and the land areas taken out from the developable areas by each amendment owing to a change in land use to "Village Type Development";*
- (b) *of a breakdown, by the new land uses, of the areas of land taken out from the total areas and the developable areas by each amendment;*
- (c) *as the Government has indicated in the Stage Three Public Engagement Digest that 167 hectares of land (accounting for 21.2% of the total areas) will be used for "Residential and Village Type Development", of the areas and percentages of land for various uses in the NDAs (set out in the table below);*

	<i>Kwu Tung North</i>	<i>Fan Ling North</i>	<i>Ping Che/Ta Kwu Ling</i>
<i>Village Type Development</i>			
<i>Public housing</i>			
<i>Residential (Group A)</i>			
<i>Residential (Group B)</i>			
<i>Residential (Group C)</i>			

	<i>Kwu Tung North</i>	<i>Fan Ling North</i>	<i>Ping Che/ Ta Kwu Ling</i>
<i>Residential (Group D)</i>			
<i>Residential (Group E)</i>			
<i>Others</i>			
<i>Total</i>			

- (d) *among the lands mentioned in part (c), of the areas of land in respect of which the Government will incorporate the terms of "Hong Kong property for Hong Kong residents" in the Conditions of Sale (set out in the table above);*
- (e) *of the respective areas of "Village Type Development" sites reserved for the construction of New Territories small houses in the three NDAs, and the estimated numbers of small houses which can be provided respectively in the three NDAs; and*
- (f) *as the Government has reserved a total of 24 hectares of land for "Commercial, Research and Development" uses and another 36 hectares of land have been planned for developing special industries in the three NDAs, of the industries that the Government will develop in making use of such land?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, implementing the NDAs is to cater for the population growth and long-term housing and economic development needs in Hong Kong. The Study aims to establish a planning and development framework for the Kwu Tung North, Fan Ling North and Ping Che/Ta Kwu Ling NDAs and to formulate development plans and implementation strategy. The Study adopts a three-stage public engagement programme. The Stage One Public Engagement, completed in early 2009, sought to solicit public views on the vision and aspirations for the NDAs and carried out analyses and basic technical assessments based on the baseline information gathered in the Study for preparing the Preliminary Outline Development Plans (PODPs) for the NDAs. The Stage Two Public Engagement, completed in early 2010, sought to consult the public on the PODPs. Taking into account the public views received in the Stages One and Two Public Engagement as well as the results and recommendations of the

relevant technical assessments, the consultants formulated the Recommended Outline Development Plans (RODPs). The public was consulted on the RODPs in the Stage Three Public Engagement, which ended in September this year. The three documents mentioned in the question are for briefing the Legislative Council on the three respective public engagement exercises.

Regarding the various parts of the question, the replies are as follows:

(a) and (b)

The land areas and developable areas of the NDAs stated in the Stages One to Three Public Engagement Digests are set out in Table 1 below.

Table 1 Land Areas and Developable Areas of NDAs

	<i>Stage One Public Engagement</i>	<i>Stage Two Public Engagement (PODPs)</i>	<i>Stage Three Public Engagement (RODPs)</i>
Total Area of NDAs (hectares)	1 000	805	787
Developable Area (hectares)	775 ⁽¹⁾	620 ⁽²⁾	533 ⁽²⁾

Notes:

- (1) Developable area excludes areas of hills and rivers.
- (2) Referring to areas with new developments, excluding areas zoned "Village Type Development" (V), "Conservation Area" (CA), "Green Belt", "Agriculture" (AGR) and "River Channel", as well as those already occupied by existing developments/reserved for committed developments.

The total area and developable area of the NDAs set out in the Stage One Public Engagement were only preliminary areas for study without any detailed land use planning concepts and specific plans. After considering the public views and the results of various technical assessments, the consultants formulated the PODPs for the Stage Two Public Engagement, which translated various land planning concepts into specific uses. In the Stage Three Public Engagement, the total area and developable area of the NDAs under the RODPs were reduced mainly due to excision of land with high ecological value and two villages (Ping Che and Ping Che Kat Tin),

and reduction of land required for the expansion of Shek Wu Hui Sewage Treatment Works. Furthermore, two pieces of land to the north and south of the Long Valley Nature Park and a piece of land in Fu Tei Au in Fan Ling North were rezoned "AGR", while a piece of meander wetland to the west of Fan Ling North were rezoned "CA". As a result, the area of developable land was reduced.

Three indigenous villages (namely Ho Sheung Heung Village, Yin Kong Village and Ping Che Yuen Ha Village) in the NENT NDAs were designated as "V" zones on the PODPs in the Stage Two Public Engagement and the RODPs in the Stage Three Public Engagement. Their areas have remained largely the same on the two outline development plans. The three "V" zones basically fall within the relevant village environs.

- (c) According to the RODPs for the NDAs in the Stage Three Public Engagement, about 167 hectares of land are zoned "Residential" (R) and "V". The areas zoned "R" and "V" based on different residential categories in the three NDAs are summarized in Table 2.

Table 2 Areas of Different Residential Categories in the NDAs

	<i>Kwu Tung North</i> (hectares)	<i>Fan Ling North</i> (hectares)	<i>Ping Che/ Ta Kwu Ling</i> (hectares)	<i>Total</i> (hectares)
Public housing	21	10	0	31 (18.5%)
Residential Zone 1	9	6	0	15 (9.0%)
Residential Zone 2	13	19	0	32 (19.1%)
Residential Zone 3	11	8	0	19 (11.4%)
Residential Zone 4	1	0.3	0.7	2 (1.2%)
Rural Residential Zone 2	0	0	24	24 (14.4%)
Rural Residential Zone 3	0	0	24	24 (14.4%)

	<i>Kwu Tung North</i> (hectares)	<i>Fan Ling North</i> (hectares)	<i>Ping Che/ Ta Kwu Ling</i> (hectares)	<i>Total</i> (hectares)
Village Type Development	17	0	3	20 (12.0%)
Total	72	43.3	51.7	167 (100%)

The areas and percentages of land for non-residential uses are detailed in the Stage Three Public Engagement Digest <http://www.nentnda.gov.hk/eng/Digest3_e.pdf>.

- (d) The policy of "Hong Kong property for Hong Kong residents" aims at giving priority to meeting the home purchasing needs of permanent residents in Hong Kong. On implementation, the Government will, having regard to the market situations and relevant land conditions, suitably include clause(s) on "Hong Kong property for Hong Kong residents" when putting up land for sale. We plan to incorporate where appropriate such clause(s) in the future sale of private residential land in the NENT NDAs. Currently, there is no specific figure on the land areas concerned.
- (e) The respective areas of land designated as "V" zones on the RODPs of the three NDAs are set out in Table 2. It is a very rough estimate that after excluding the developed land, some 200 and dozens of Small Houses can be developed within the "V" zones of Kwu Tung North NDA and Ping Che/Ta Kwu Ling NDA respectively. The relevant factors of land ownership, lot boundaries and topography have not been taken into account in estimating these figures.
- (f) Land has been designated in the NDAs for promoting economic development and creating job opportunities. According to the current planning, the 36 hectares of "Special Industries" land in Ping Che/Ta Kwu Ling NDA will provide space for the development of high value-added and non-polluting industries, industries with clear advantages and logistics industries. About 10 hectares of land in Kwu Tung North NDA are designated for research and development uses. The "Commercial, Research and Development" Area

measuring around 14 hectares of land along Fanling Highway, with potential for various types of office, research and development as well as hotel uses, can provide space for development of the industries which Hong Kong enjoys clear advantages.

Promoting Development of Industries

9. **MR CHUNG KWOK-PAN** (in Chinese): *President, when the Chief Executive talked about the relationship between the Government and the market in his address to the Legislative Council on the 17th of this month, he pointed out that Hong Kong needed to develop new strengths to keep its leading position; otherwise, it would fall behind. With regard to the promotion of the development of industries in Hong Kong, will the Government inform this Council:*

- (a) *whether the Government of the current term will continue to promote the six industries where Hong Kong enjoys clear advantages; if it will, of the specific plans in place, and the details of the policies concerned; if not, the reasons for that; of the measures put in place by the authorities to support the development of such industries in order to improve the Hong Kong economy;*
- (b) *whether the authorities have any specific ideas regarding the new strengths that Hong Kong needs to develop as mentioned by Chief Executive; if they have, of the details; whether the authorities will review afresh the policies regarding the exploration of emerging industries and the nurturing of related talents so as to promote diversified development of the industrial structure and enhance Hong Kong's competitiveness; and*
- (c) *whether the Government will strengthen support for the traditional pillar industries which are relevant to the emerging industries, in particular those faced with continuous soaring operational costs and, as a result, are in dire need of reforming for development; if it will, of the details?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in the absence of Secretary for Commerce and Economic Development) (in Chinese): President, my collective reply to the three parts of the question is as follows:

The Government attaches great importance to the development of industries in Hong Kong, since quality employment opportunities could only be created by promoting a firm economic development and encouraging businesses to thrive. We will actively support the diversification of our economy that can engender a stronger middle class and better job opportunities for the grassroots. The Chief Executive has stated clearly in his manifesto that we would draw up an overall industry policy with a view to creating jobs and improving people's livelihood.

To implement the above guiding thoughts, we need to support emerging industries with growth potentials. The Government should take a more active and positive role and act as the market facilitator. When selecting potential emerging industries, we should consider the inherent merits of these industries and capitalize on the opportunities made available by the rapid developments in the Mainland. It is also stated in a dedicated Chapter of the National 12th Five-Year Plan that support is given to the development of emerging industries in Hong Kong —

"Section 2 Supporting Hong Kong and Macao to nurture emerging industries

Supporting Hong Kong and Macao to strengthen their capabilities in industrial innovation, expedite the nurturing of new economic growth points and take forward co-ordinated economic and social development."

— (Section 2, Chapter 57, National 12th Five-Year Plan)

In the past few years, the Government has actively allocated resources to promote the development of these industries. Take innovation and technology as an example. Hong Kong enjoys various strengths, including a fine tradition of rule of law, a sound intellectual property rights protection regime as well as universities at international standards. Developing technology-based industries will provide not only quality research and employment opportunities in Hong Kong, but also enhance the competitiveness of Hong Kong's other industries.

We are committed to creating a favourable environment to facilitate the realization of research and development (R&D) results, by providing software and hardware support and fostering co-operation among the Government, industry, academia and the research sectors. For instance, we have commenced development of Phase 3 of the Science Park, launched the R&D Cash Rebate Scheme and raised the level of rebate from 10% to 30% upon review, and rolled out the Public Sector Trial Scheme.

Apart from promoting the existing industries, the Government will also need to create new advantages and develop new strengths for Hong Kong. The Chief Executive has therefore announced that an Economic Development Commission (EDC) would be established to provide visionary direction and advice to the Government on the overall strategy and policy to broaden Hong Kong's economic base and to enhance Hong Kong's economic growth and development, and in particular, to explore and identify growth sectors or clusters of sectors which present opportunities for Hong Kong's further economic growth, and recommend possible policy and other support for these industries. EDC will be led by the Chief Executive. The preparatory work for the setting up of the EDC has commenced and it is envisaged that the EDC would be set up shortly.

We have to maintain Hong Kong's existing advantages while building up new ones. In fact, there are certain synergies between traditional and emerging industries. One may think that the textiles and apparel industry is a rather traditional sector, but if the needs of the industry can be met by applying innovative technology to enhance product quality, expand into new application areas and lower production costs, this will be a good example of cross-sector synergistic development.

We also understand that recently, the traditional pillar industries are in urgent need to upgrade and restructure their operations in the face of increasing operating costs. As such, the Government has introduced a number of policy measures this year to ease the burden of enterprises, improve the business environment, and assist the enterprises in upgrading and restructuring their operations and enhancing their service quality. These measures include the launching of the special concessionary measures under the SME Financing Guarantee Scheme, supporting the Hong Kong Export Credit Insurance Corporation to offer concessionary policy terms for small and medium enterprises

(SMEs) including premium discounts for SMEs, signing the Supplement IX to CEPA to provide more services liberalization and trade and investment facilitation measures, as well as rolling out the \$1 billion Dedicated Fund on Branding, Upgrading and Domestic Sales to assist enterprises in developing brands, upgrading and restructuring their business operations and promoting domestic sales in the Mainland market.

Looking forward, the Government is eager to work together with various stakeholders in pooling wisdom to jointly formulate an overall economic development strategy and a corresponding industry policy with a view to boosting the economy, improving people's livelihood and maintaining Hong Kong's long-term competitiveness.

MTR Fare Adjustment and Fare Concessions

10. **MR TANG KA-PIU** (in Chinese): *President, the Fare Adjustment Mechanism (FAM) of the MTR Corporation Limited (MTRCL) has been in operation for four years since 2009. Except for the first year with freezing of fares, the MTRCL increased its fares for the other three years despite making profits of more than \$10 billion. The fare increase for this year was as high as 5.4%, the highest among all these years. Some members of the public have pointed out that the MTRCL has tried to "make every possible gain" in making fare adjustment. Quite a number of members of the public have also reflected to me that the fare concessions and promotional schemes introduced by the MTRCL (such as the monthly pass for the Tung Chung Line, the "Ride 10 Get 1 Free" scheme, and so on, launched this year) have not brought real benefits to the public, and that the Government, being the major shareholder of the MTRCL, should have "the final say" and "monitoring power" over the MTRCL's annual application for fare increase. In this connection, will the Government inform this Council:*

- (a) *whether it knows as of date the respective numbers of people who have benefited as well as the total savings from the various concession schemes introduced by the MTRCL in the past three years;*

- (b) *whether it knows the weekly average numbers of Octopus cards, since the introduction of the "Ride 10 Get 1 Free" scheme by the MTRCL this year, the holders of which took nine and eight MTR journeys respectively in a week (from Monday to Friday), and the respective percentages of such numbers in the total number of the Octopus cards sold; if such statistics are not available, of the reasons for that;*
- (c) *of the annual dividends received by the Government from the MTRCL in the past four years; how the Government disposed of the dividend income and details thereof;*
- (d) *whether the government officials who are currently non-executive directors on the MTRCL's Board of Directors have the power to veto fare adjustment proposals at the board meetings; if yes, whether they have exercised such power; if not, the reasons for that; and*
- (e) *given that it has been reported that the MTRCL undertook in May 2012 to introduce concessionary measures to give back to MTR passengers within one year the additional income of \$670 million generated by fare increases, of the specific measures taken by the Government, as the MTRCL's major shareholder, to ensure that the MTRCL will honour this undertaking; how the Government will follow up the situation of the MTRCL not honouring this undertaking?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my reply to various parts of Mr TANG's question is as follows:

- (a) Over the past three years, the major fare promotions and concessions offered by the MTRCL, as well as the number of passengers benefited and the amount involved, are set out at Annex 1.
- (b) The MTRCL launched the "Ride 10 Get 1 Free" promotion on 18 June 2012. The promotion period will last till 30 December this year. Passengers can enjoy this fare promotion by riding 10

journeys or more on MTR from Monday to Friday in the same week. Up to this moment, the weekly average number of passengers who can benefit from the "Ride 10 Get 1 Free" promotion amounts to some 870 000. The average number of Octopus card holders who take eight and nine journeys from Monday to Friday in a week are about 196 000 and 149 000 respectively.

- (c) The details of dividends received by the Government from the MTRCL annually in the past four years are set out at Annex 2.

Pursuant to section 3 of the Public Finance Ordinance (Cap. 2), the dividends that the Government receives from the MTRCL form part of the Government's general revenue. The Government will give a holistic consideration on the utilization of these dividends as well as other Government's revenue. These financial resources will be used on various public services and the community at large via appropriate deployment in response to different policies and priorities.

- (d) During the merger of the two railway networks in December 2007, the Government and the MTRCL signed the Operating Agreement (OA). The OA stipulates various matters including the construction and operation of railways, and the FAM is also covered. Under the current FAM, the fare adjustment rate for the prevailing year is determined in accordance with a direct-drive formula linked to the year-on-year percentage changes in both the Composite Consumer Price Index and the Nominal Wage Index (Transportation Section) of the previous year, as well as a productivity factor. The OA is legally binding.

Currently, the Secretary for Transport and Housing, the Secretary for Financial Services and the Treasury, and the Commissioner for Transport are serving as the non-executive directors of the Board of MTRCL. Public officers reflect the community's views and requests on the MTRCL's services and fares in the Board. During the discussion of the fare adjustment, the Government also urges the MTRCL to take into account the overall macro-economic

environment, and implement more and various effective fare concessions so as to address the needs of passengers and alleviate their burden of travelling expenses.

The Government is reviewing the FAM of the MTRCL and conducting a public consultation exercise. We are actively examining whether and how new elements in addition to the data linked with the economic performance, wage index and productivity factor should be introduced in the FAM so as to reflect the operating costs, profit level, efficiency of operation and service performance of the MTRCL as well as the affordability of general public, and so on. The review is expected to be completed by early 2013.

- (e) While the MTRCL published the adjusted fares on 25 May 2012, at the same time it also announced the offer of a new package of fare promotions to give back to passengers the value of the additional revenue it would receive in the year from the 2012 fare adjustment, bringing an overall savings in transport expenses of approximately \$670 million to passengers.

According to the MTRCL, the savings were calculated based on the Corporation's past experience in offering similar promotions. The actual savings would depend on the patronage figures and the participation level of passengers. The MTRCL stated that it would not terminate the promotions prematurely even if the actual savings reach \$670 million. If the actual savings are less than \$670 million, the Government will urge the MTRCL to consider extending certain promotions or introducing other promotions.

The Government will continue to monitor closely the implementation of the promotions. The MTRCL will also regularly review the effectiveness of the fare promotions. Upon the completion of the fare promotions, the MTRCL will submit to the Government the actual utilization data of the promotions.

Annex 1

Major Fare Promotions and Concessions Provided by the MTRCL
from 2009 to 2011

<i>Major Fare Promotions and Concessions[#]</i>	<i>2009</i>		<i>2010</i>		<i>2011</i>	
	<i>Passenger trips benefited (million)</i>	<i>Amount involved (\$million)</i>	<i>Passenger trips benefited (million)</i>	<i>Amount involved (\$million)</i>	<i>Passenger trips benefited (million)</i>	<i>Amount involved (\$million)</i>
Fare concession for children	46	168	46	170	48	189
Student Travel Scheme	165	538	183	610	186	645
Fare concession and \$2 fare promotion for the elderly*	85	377	90	420	98	462
Fare concession for Persons with Disabilities	0.2	<0.5	9	40	14	52
Monthly Pass and Day Pass	74	177	82	230	86	230
Free interchange offer and Light Rail Personalized Octopus Frequent User Bonus Scheme	36	130	38	145	38	147
"Ride \$100 Get \$5 MTR Shop Coupon" promotion scheme (Promotional period: 14 June 2010 to 6 August 2010)	N/A	N/A	0.4	2	N/A	N/A
"Ride \$100 Get 1 Free" promotion scheme (Promotional period: 4 July 2011 to 30 December 2011)	N/A	N/A	N/A	N/A	5	65
Total	406.2	1,390.5	448.4	1,617	475	1,790

Notes:

Excluding Fare Saver discounts provided under commercial promotions.

* This item refers to the MTRCL's own concessions for elderly but not the Government's Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities launched in June 2012.

Dividends received by the Government
from the MTRCL in past four financial years

<i>Government Financial Year</i>	<i>Cash Dividends (\$million)</i>	<i>Scrip Dividends (Million Shares)</i>
2009-2010	920	56.0
2010-2011 ^{Note}	1,302	33.8
2011-2012 ^{Note}	3,104	N/A
2012-2013 ^{Note}	3,370	N/A

Note:

The Government has only collected cash dividends since the MTRCL's 2010 financial year.

Governance of Public Organizations

11. **MR WONG TING-KWONG** (in Chinese): *President, regarding the governance of public organizations, will the Government inform this Council:*

- (a) *given that the Audit Commission published in 2009 reports on issues of governance of the Equal Opportunities Commission (EOC) and the Office of the Privacy Commissioner for Personal Data (PCPD), how the controlling officers concerned have followed up and implemented the improvement measures recommended in the reports, so as to prevent these organizations from merely "taking the advice without changing the attitude"; of the specific tasks carried out and the work progress;*
- (b) *whether the authorities will revise the arrangements for monitoring public organizations to ensure that the Government has appropriate monitoring authority and is able to help reform the governance structures and management of public organizations; if they will, of the details; if not, the reasons for that; and*
- (c) *whether the authorities will review the long-term positioning and development of public organizations with a view to enhancing their accountability; if they will, of the details; if not, the reasons for that?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, the Administration's reply to various parts of the question is as follows:

- (a) As reported in Government Minutes to the Public Accounts Committee Report in the past, of the 94 recommendations made by the Audit Commission and the Public Accounts Committee in 2009 in respect of the EOC and PCPD, save for one recommendation on the administrative measure in respect of the EOC for which preparation work is in progress, all have been implemented.

The Administration will continue to monitor the operation and performance of the EOC and PCPD in accordance with the "Memoranda of Administrative Arrangements" signed with the two organizations, through regular progress review meetings and examination of regular progress review reports.

- (b) Over the years, the Government has, in the light of actual needs, established different types of public organizations to provide services to the public. The coverage of public organizations is extensive — it includes statutory bodies and non-statutory bodies, be they fully or partially funded by the Government, or relying on fees charged for their services or levies collected under the relevant legislation to provide funding for their operation.

The Government attaches great importance to sound corporate governance and good management practice. Strengthening corporate governance of public organizations will contribute towards the overall efficiency and effectiveness of the public sector, and is an integral part of the Government's initiative to strengthen public sector management. Generally speaking, while respecting the need for public organizations to maintain flexibility in operation and its independence, the Government will consider all relevant factors, such as the objectives of setting up the organizations and the powers conferred on them, and introduce regulatory measures to these organizations where necessary. As for the detailed arrangements, they will be mapped out by the corresponding Policy Bureaux.

For statutory bodies, generally speaking, there are already specific legal provisions governing their operations in the ordinances that establish these bodies. The means through which the Government monitors the operation of statutory bodies include the following:

- (i) requiring a statutory body to submit a proposed programme of activities, and estimates of income and expenditure for the coming year to the Government for approval;
- (ii) requiring a statutory body to submit an annual report, statement of accounts and auditor's report to the Government; and/or
- (iii) subject to the nature of the statutory body concerned, the Administration can send government representatives to sit on a statutory body as ex-officio members or sending representatives to attend meetings of a statutory body; and/or holding regular meetings with the statutory body to understand its administration and operation.

For public organizations receiving government subventions, to facilitate Directors of Bureaux and Controlling Officers to better perform their regulatory duty, the Government promulgated a set of guidelines on the governance of public organizations in 2008, which explains the broad principles of a governance framework for public organizations. The guidelines clearly point out that a proper governance framework should consist of the following three key elements:

- (i) clear objectives and priorities;
- (ii) clear delineation of accountability and clear division of responsibilities; and
- (iii) robust internal control and reporting/monitoring systems.

As for financial control, the Government issued relevant guidelines on funding for subvented organizations in 2004 for reference by

Policy Bureaux and Controlling Officers. These guidelines require an organization to prepare a budget annually and submit audited financial accounts to the Government. The guidelines also provide that, where necessary, the Government should include the relevant organizations into the scope of audit by the Director of Audit, and enter into a Memorandum of Administrative Arrangement and other instruments with these organizations, which set out the corresponding responsibilities in terms of management and supervision. In using government funding, the organization is required to have in place an appropriate system of cost control and monitoring, and exercise prudent budgetary practices with a view to ensuring that public money is used properly and cost effectively. These two sets of internal guidelines are circulated within the Government regularly for reference.

Further to the above, the Efficiency Unit also published the "Guide to Corporate Governance for Subvented Organizations" in 2010 to provide assistance to board members and senior executives of the subvented organizations. It aims to illustrate best practices of corporate governance for the subvented organizations, and through its deliberation, equip the corresponding officers with better understanding of the principles, systems and good practices of corporate governance, thereby enhancing the governance of the subvented organizations.

Taking the foregoing into account, the Government has already put in place measures to facilitate the effective operation of public organizations in different perspectives. Owing to the diverging nature of functions and responsibilities of different public organizations, we consider it impracticable if a prescribed universal standard is to be applied to the corporate governance of public organizations, or that a "one-off" revision to the monitoring arrangements of public organizations is to be introduced. In general, the existing system has to a certain extent performed a check-and-balance role. The corresponding Policy Bureaux will conduct individual reviews on the governance structure for public organizations from time to time, having regard to the needs of the community.

- (c) Prior to establishing a public organization, the Government will have considered all relevant factors and clearly set out the objectives to be met by the organization as well as the powers that should be conferred on it. The corresponding Policy Bureaux will review, on a need basis, after the establishment of these public organizations, their effectiveness in service delivery, including whether the objectives of the establishment of these organizations have been effectively achieved. As explained above, owing to the wide coverage of public organizations and the differences in their terms of power, duties and service nature, we consider it impractical for the Government to summarily review the long-term positioning and development of public organizations on a collective basis. The Government recognizes the high expectation from the public on the public organizations. The corresponding Policy Bureaux will, where necessary, continue to individually review the performance of public organizations under their purview, their modes of operation and long-term development position in response to public needs.

Measures to Combat Money Laundering Activities via Real Property Sector

12. **MR KENNETH LEUNG:** *President, although Hong Kong tightened its anti-money laundering (AML) legislation with the enactment of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) in April 2012, it was ranked 86th among 144 countries and territories in terms of money laundering risk and assessed to be of medium risk level in money laundering by the Basel Institute on Governance earlier this year. Besides, it is noted that only three circulars on AML have been issued to estate agents since 2000 to prevent money laundering activities via the real property sector. According to the Financial Action Task Force Mutual Evaluation Report published in July 2008, only one single suspicious transaction report (STR) was filed by estate agents between 2003 and 2007. In this connection, will the Government inform this Council:*

- (a) *how many STRs were received by the Joint Financial Intelligence Unit (JFIU) each year from 2008 onwards, and how many of such STRs were made by estate agents;*

- (b) *how many estate agents were disciplined, since 2000, by the Disciplinary Committee of the Estate Agents Authority (EAA) due to failure in observing the AML principles contained in the aforesaid circulars;*
- (c) *what measures the Government is going to take to enhance the client identification process, transaction monitoring and the reporting regime for combating money laundering activities via the real property sector; and*
- (d) *whether the Government will examine if it is appropriate to require offshore vehicles holding residential properties in Hong Kong to disclose the names of their shareholders in land records in order to increase the transparency of real property transactions?*

SECRETARY FOR SECURITY: President, as an international financial centre, Hong Kong has been an active participant in the global efforts to combat money laundering. Over the years, Hong Kong has put in place a robust and comprehensive AML regime in line with the relevant international standards through legislation, law enforcement, regulation of the financial sectors, issuance of guidelines, publicity and education, and international co-operation. The AML regime in Hong Kong has been functioning well and is positively recognized by overseas counterparts, international organizations and the relevant standard setting bodies, including the Financial Action Task Force (FATF).

In Hong Kong, the Financial Services and the Treasury Bureau is the overall co-ordinator in relation to AML policies and the implementation of FATF's requirements, while the Security Bureau is responsible for implementing FATF's Recommendations in relation to, amongst others, the AML requirements concerning Designated Non-Financial Businesses and Professions (DNFBPs), including requirements on suspicious transaction reporting, customer due diligence (CDD) and record-keeping to ensure that DNFBPs have in place effective measures against money laundering. The estate agency sector is one of the DNFBPs upon which such requirements should apply.

At present, in line with FATF's requirements, estate agents are subject to the legal requirements in respect of suspicious transaction reporting. Pursuant to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap. 455), where a person, including but not limited to estate agent, knows or suspects that any property represents any person's proceeds of drug trafficking or crime, he shall disclose that knowledge or suspicion to the JFIU.

In addition to the abovementioned legal requirements, the EAA has in the past years issued four Practice Circulars (PCs) on AML, requiring estate agents to adopt preventive measures against money laundering, including suspicious transaction reporting, CDD and record-keeping, and providing guidance on the implementation of such measures to prevent real estate transactions from being abused for money laundering.

In consultation with relevant Policy Bureaux, our reply to various parts of the question is as follows:

- (a) The number of STRs received by the JFIU and the number of STRs made by estate agents since 2008 are as follows:

<i>Number of STRs</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012 (up to September)</i>
Total	14 838	16 062	19 690	20 287	17 795
By estate agents	2	1	0	2	21

- (b) According to the record of the EAA, one licensee was disciplined by the EAA's Disciplinary Committee in 2010 due to failure in observing EAA's PCs on AML.
- (c) As outlined above, existing AML legislation in respect of suspicious transaction reporting applies to the estate agency sector, as with other sectors in the community. To prevent real estate transactions from being abused for money laundering, the EAA has also issued four PCs on AML requiring estate agents to adopt preventive measures against money laundering.

As part of the process to work with DNFBPs to ensure their compliance with FATF's AML requirements, the Security Bureau has been working with the EAA and JFIU in the past few years to raise practitioners' awareness of the money laundering risk in the sector and the AML requirements under the law and the PCs, with training seminars for estate agents. Such capacity building efforts will be sustained as we continue to work with the sector to bring Hong Kong's AML regime for the DNFBPs towards fuller compliance with relevant FATF's requirements.

- (d) Hong Kong has a robust and comprehensive AML regime in line with relevant international standards, we will continue to work with relevant sectors towards compliance with FATF's AML requirements for DNFBPs. Since FATF does not have any requirement on the disclosure of names of shareholders of offshore vehicle holding local residential properties in land records, we do not have any plan to examine the suggestion in the context of FATF compliance.

Unsolicited Commercial Marketing Messages

13. **MR CHARLES PETER MOK** (in Chinese): *President, regarding unsolicited commercial marketing messages, will the Government inform this Council:*

- (a) *given that nowadays smart phones and instant mobile messaging applications (such as WhatsApp) are very popular and a number of organizations or individuals use them as marketing tools, whether the authorities have received any complaints about unsolicited electronic messages sent through instant mobile messaging applications; if they have, of the number of such complaints received each year; whether the authorities will bring this kind of messages within the ambit of the Unsolicited Electronic Messages Ordinance (UEMO) (Cap. 593);*
- (b) *given that UEMO has been fully implemented for nearly five years, whether the authorities have plans to review it to ensure that it is able to keep pace with the current technological development and to*

enhance its regulatory effectiveness; if they have, of the details and the work schedule; if not, the reasons for that; and

- (c) *given that the authorities had informed the Panel on Information Technology and Broadcasting of this Council in November 2009 that they had no plan to introduce legislation to regulate person-to-person telemarketing calls, whether the authorities at present have plans to review afresh the impact of this kind of telemarketing calls on the public and consider introducing legislation to regulate such calls; if they have, of the details and the work timetable; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in the absence of Secretary for Commerce and Economic Development) (in Chinese): President, the Government's reply to the Member's question is as follows:

- (a) A technology-neutral stance has been adopted for the UEMO in regulating the sending of commercial electronic messages with a "Hong Kong link". That means the sending of all electronic messages of a commercial nature are regulated by the UEMO, regardless of the type of telecommunications devices, electronic technologies or methods (including some mobile messaging applications such as WhatsApp) applied in sending such messages. All senders of such messages must comply with the provisions of the UEMO. A message has a "Hong Kong link" if it originates in Hong Kong or is sent to a telephone number, a facsimile number, an electronic mail address or any other electronic addresses in Hong Kong.

The Office of the Communication Authority (OFCA) first received report on cases concerning the sending of commercial short messages through mobile messaging applications (for example, WhatsApp) in July 2011. As of 15 October 2012, we received a total of 106 cases, with the year-on-year figures as follows:

<i>Period</i>	<i>Number of reports received concerning the sending of commercial short messages through mobile messaging applications (for example, WhatsApp)</i>
2011	3
2012 (As of 15 October)	103
Total	106

The OFCA conducts investigation on the reports received in accordance with the provisions of the UEMO.

- (b) Since the full implementation of the UEMO on 22 December 2007, we have constantly monitored the situation of unsolicited commercial electronic messages. The technology-neutral stance adopted by the UEMO ensures that we are able to keep pace with the technological development and continue to regulate the sending of all kinds of commercial electronic messages transmitted through the public telecommunications network. Therefore, we have no plans to review the UEMO in this respect.
- (c) A portion of person-to-person telemarketing calls could no doubt bring convenience for the public by providing an effective channel for them to receive useful promotional information on products or services. Moreover, person-to-person telemarketing calls not only improve the sales of the enterprises, but also provide employment opportunities to around 20 000 employees in Hong Kong. However, in order to minimize the nuisance of telemarketing calls caused to the public, the Administration, since the end of 2010, actively encouraged the four business sectors which make the largest number of person-to-person telemarketing calls, that is, finance, insurance, telecommunications and call centres sectors to implement the self-regulatory scheme. The aim of the scheme is to promote the best practices when conducting person-to-person telemarketing calls recommended in the Code of Practice agreed by the industry. Since June 2011, the industry associations of all four sectors have implemented the scheme and promulgated their respective Codes of Practice for compliance by their members.

We hope to continue employing the existing self-regulatory approach to deal with the issue of person-to-person telemarketing calls as it strikes a balance between the need to protect the rights of the public and to allow the business sector to conduct legitimate telemarketing. We will continue to monitor the progress of the self-regulatory scheme and the development of person-to-person telemarketing calls in the society.

Proposal to Provide Additional Shopping Areas in Public Housing Estates

14. **MR LEUNG YIU-CHUNG** (in Chinese): *President, it has been reported that during his election campaign in January this year, the Chief Executive proposed to separately provide shopping malls or shopping areas in the vicinity of the shopping malls under The Link Management Limited (LML) to offer low-priced goods for sale, so as to meet the needs of tenants of public housing estates. In this connection, will the Government inform this Council if it has any plan at this stage to implement such proposal; if so, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the primary objective of the Hong Kong Housing Authority (HA) in divesting its retail and car-parking facilities to The Link Real Estate Investment Trust (The Link) was to enable the HA to focus on its role as a provider of public housing. LML, which is responsible for the management of The Link's retail and car-parking facilities, operates on commercial principles. Given the fact that most of The Link's commercial facilities are located in public housing estates and its clientele are mainly public housing residents, its commercial facilities must cater for the needs and affordability of these residents. The management of LML had previously indicated at the Legislative Council that they understand that The Link has to serve the residents of public housing estates. In determining the rental, they would take into account tenants' performance and the market trend, and would try their best to maintain the rental at an affordable level.

At present, the HA still retains a range of commercial and retail facilities in public housing estates (including those that are in fact in the vicinity of The Link's commercial facilities) to cater for the daily needs of residents. The HA

will, having regard to the actual circumstances, provide additional retail premises at suitable spots in its existing shopping centres so as to offer more retail services. As for new public housing estates completed since 2005, the HA has also been providing commercial facilities to meet the daily needs of residents. Examples of such recently completed facilities include Choi Tak Shopping Centre, Yau Lai Shopping Centre, Yan On Shopping Centre and the Domain. The Domain is the HA's newest regional shopping centre to be formally opened soon in Yau Tong in the vicinity of The Link's Lei Yue Mun Plaza. Together with the Domain, the HA provides commercial and retail facilities with a total floor area of 200 000 sq m.

Review of Section 39E of Inland Revenue Ordinance

15. **DR LAM TAI-FAI** (in Chinese): *President, the Chief Executive has indicated in his election manifesto that "We will support Hong Kong manufacturers in restructuring their business model to tap the domestic market on the Mainland", and "will actively consult with Mainland authorities to help Hong Kong enterprises on the Mainland to resolve the problem of increased taxation costs arising from business restructuring". In the Inauguration Ceremony of the Government held on 1 July 2012, Chief Executive also said that "We fully recognize the contribution to our economy by Hong Kong businesses operating on the Mainland and will continue to support their restructuring and upgrading". In this connection, will the Government inform this Council:*

- (a) *of the specific measures or plans to honour Chief Executive's aforesaid pledges;*
- (b) *whether the problems of increased taxation costs arising from the restructuring of Hong Kong businesses on the Mainland include the problem of Hong Kong enterprises engaged in import processing trade not being able to obtain depreciation allowance in Hong Kong for machinery and plants made available for use by Mainland enterprises because of section 39E of the Inland Revenue Ordinance (Cap. 112) (section 39E); if so, how this problem can be solved; if not, of the reasons for that;*

- (c) *as the authorities have said that there are practical difficulties in relaxing the restriction imposed by section 39E, which include whether the machinery or plant used on the Mainland was producing profits chargeable to tax in Hong Kong, whether it is used for the manufacturing of goods sold solely to the Hong Kong enterprise, whether the machinery or plant has been sold, and whether depreciation allowances of the same machinery or plant have been claimed by other enterprises, and so on, whether the Government will discuss with the relevant Mainland authorities to resolve such practical difficulties; if it will, of the details; if not, the reasons for that;*
- (d) *as both the Secretary for Financial Services and the Treasury and the Secretary for Commerce and Economic Development of the Government of the last term indicated that there were no justifiable grounds to relax section 39E, whether the Government of the current term will review afresh section 39E; if it will, of the details; if not, the reasons for that;*
- (e) *given that the Government of the last term refused to accept the recommendation put forward by the Joint Liaison Committee on Taxation (JLCT) on section 39E, whether the Government of the current term will consider accepting the recommendation; if it will, of the details; if not, the reasons for that;*
- (f) *whether Chief Executive has made enquiries to or followed up with any government department on issues involving section 39E; if he has, of the details; if not, the reasons for that;*
- (g) *whether the government departments concerned have relayed truthfully and objectively to Chief Executive the views on section 39E of the local industrial and commercial sectors, the accounting trade and tax experts; if they have, of Chief Executive's response; if not, the reasons for that;*
- (h) *whether the government departments concerned have truthfully explained to Chief Executive why the authorities have all along not consulted the Department of Justice or other members of the legal*

profession on the interpretation of section 39E; if they have, of Chief Executive's response; if not, the reasons for that;

- (i) as the authorities have indicated that relaxation of section 39E might lead to tax avoidance loopholes, whether the Government of the current term has carefully assessed the possibility of the emergence of the so-called tax avoidance loopholes and their impact; if it has, of the details; if not, why the authorities have said so; and*
- (j) as the authorities have indicated that they have to take into account the overall interests of Hong Kong and all the taxpayers in making each and every policy decision, whether the Government has assessed the contribution to be brought to the overall interests of Hong Kong by amending section 39E; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, my reply to the various parts of the question is as follows:

- (a) To assist Hong Kong enterprises in upgrading and restructuring their operations and promoting domestic sales in the Mainland, the Commerce and Economic Development Bureau has been implementing the following measures:
 - (i) We maintain close liaison with the relevant Mainland authorities at central, provincial and municipal levels to convey the views of the trade on the Mainland's business environment, laws and regulations, and measures to support the trade. We also organize activities such as symposiums and seminars to keep the trade abreast of various new policies and regulations and the latest business environment in the Mainland;
 - (ii) Through organizations such as the Hong Kong Trade Development Council and Hong Kong Productivity Council,

we provide Hong Kong enterprises with support services on technological upgrading, management improvement, branding and market development, and so on;

- (iii) Our offices in the Mainland would collaborate with trade associations or other organizations to organize "Hong Kong Week" in second-tier cities under their respective coverage, in order to assist Hong Kong enterprises in building up their brand image and brand awareness in the Mainland market. The first and second "Hong Kong Week" projects had been held in Chongqing and Wuhan of Hubei Province in January and April to May this year respectively. The next "Hong Kong Week" project would be held in Xiamen of Fujian Province in April to May 2013; and

- (iv) Through the existing funding schemes, including the various funding schemes for small and medium enterprises (SMEs) as administered by the Trade and Industry Department, we provide financial support to SMEs in order to assist them in market promotion, acquisition of equipment, upgrading of operational and technical skills, and business restructuring or relocation. In addition, to further assist Hong Kong enterprises in enhancing their competitiveness in the Mainland market, we introduced a \$1 billion dedicated fund in end June 2012 to assist Hong Kong enterprises in developing brands, upgrading and restructuring operations, and promoting domestic sales in the Mainland. As at end September 2012, the first batch of 104 applications received under the Enterprise Support Programme of the dedicated fund had been vetted. Twelve applications were approved with the average funding amount of about \$325,000. Another 43 applications were approved with conditions. On the other hand, the first batch of 19 applications received under the Organization Support Programme had also been vetted. Twelve applications were approved with an average funding amount of around \$3.8 million.

(b) to (e)

In the last term of the Legislative Council, the Administration had already conducted an in-depth study on section 39E. Section 39E is a specific anti-avoidance provision, which aims at limiting tax avoidance opportunities in various forms of machinery or plant leasing arrangements. According to that provision, taxpayers will be denied depreciation allowance if the machinery or plant owned by them is used outside Hong Kong by other parties. There were views suggesting that the restriction in the relevant provision should be relaxed such that Hong Kong enterprises would be allowed to obtain depreciation allowance in Hong Kong for their machinery and plant provided for use by Mainland enterprises on a rent-free basis under the "import processing" arrangement. In reviewing that provision, we have seriously considered such essential factors as whether the suggested change would be consistent with the taxation principles of Hong Kong and whether there would be any possible tax avoidance loopholes.

After examining the relevant taxation principles in relation to the processing activities carried out by Hong Kong enterprises in the Mainland, and taking into consideration the views of the industrial and commercial sector, the accounting sector and tax experts on the matter, we already conducted a review on the relevant matter in 2010. In view of Hong Kong's established taxation principles of "territorial source" and "tax symmetry", we have concluded that there are no justifiable grounds to relax the restriction in section 39E. The Administration has already made known the above stance in replying to an oral question raised by Dr LAM Tai-fai on 24 November 2010.

The reason underlying our conclusion that the relevant restriction should not be relaxed is that under the "import processing" mode, Hong Kong enterprises engaging in "import processing" merely involve in trading activities in buying/selling of goods, and they would only be liable to profits tax in Hong Kong for taxable profits derived from their trading activities. The machinery or plant is solely used by the Mainland enterprises (being separate legal

entities) in their manufacturing activities and the profits thus generated are wholly derived from the Mainland and liable to the Mainland tax. In other words, the profits generated from the Mainland manufacturing activities as stated above are not derived from Hong Kong. Based on the established "territorial source" principle of Hong Kong's tax regime, the Hong Kong Inland Revenue Department (IRD) would not charge profits tax on such profits which are not derived from Hong Kong. At the same time, based on the "tax symmetry" principle, the IRD would not grant depreciation allowance for the machinery and plant solely used in the production activities in the Mainland. If we were to relax section 39E such that depreciation allowance in Hong Kong would be provided to such machinery and plant, we would not only violate the above taxation principles but may also be perceived as encouraging transfer pricing, which would affect the taxing rights of Hong Kong and other tax jurisdictions (including the Mainland). This would not be in line with the international principles and guidelines for handling transfer pricing and Hong Kong may be regarded as a harmful tax competitor.

As a matter of fact, on the issue of transfer pricing, the State Administration of Taxation has confirmed that if a Hong Kong enterprise provides some machinery and plant (including moulds) to its associated enterprise in the Mainland rent-free for production of finished products which would be sold to the Hong Kong enterprise at a price below normal price, such arrangement may constitute an "offsetting transaction" under the "Implementation Measures of Special Tax Adjustments (Provisional)" (Guoshuifa (2009) No. 2) of the Mainland. In the course of conducting transfer pricing investigations, the Mainland tax authorities will make transfer pricing adjustments to restore the offsetting transactions.

It follows that if we accede to the request of some of the enterprises and relax the existing restriction in section 39E so as to provide depreciation allowance in Hong Kong to those machinery and plant, this would be perceived as encouraging transfer pricing and affect the taxing rights of Hong Kong and the Mainland. As a result, Hong Kong would be regarded as a harmful tax competitor. In the

course of conducting the review in 2010, we have already taken into account the views of the JLCT. However, we are of the view that JLCT has not proposed effective measures to plug the possible tax avoidance loopholes.

(f) to (j)

Since the completion of our review on section 39E in 2010, we note that the industry has raised requests relating to the matter from time to time. In this regard, we would be pleased to keep explaining to the industry the Administration's stance.

At this stage, we have no plan to assess the economic benefits arising from relaxation of the restriction in section 39E. If there is a need to conduct relevant assessment in future, we would endeavour to strike a balance among the needs of all relevant parties and the overall interest of Hong Kong.

Services Provided for Elderly Persons with Mental Illness

16. **MR CHEUNG KWOK-CHE** (in Chinese): *President, some social workers who are engaged in the provision of elderly services have relayed to me the ageing trend among patients with mental illness, as well as the rising number of ex-mentally ill persons staying in residential care homes for the elderly (RCHEs). In this connection, will the Government inform this Council:*

- (a) *of the current number of patients with mental illness in Hong Kong, together with a breakdown by disease groups in the diagnosis profile adopted by the Hospital Authority (HA); the current number of patients with mental illness who are over 65 years old in Hong Kong;*
- (b) *among the discharged patients with mental illness who are over 65 years old, of the respective current numbers of those staying in RCHEs (for example, care and attention homes and nursing homes) and hostels for ex-mentally ill persons (for example, halfway houses*

and long stay care homes) which are subvented by the Social Welfare Department (SWD); and

- (c) *under the current policy and with the existing services, how the authorities cater for the needs of the elderly with mental illness for rehabilitation and residential services; whether the authorities will consider providing specialized services to patients with mental illness who are over 65 years old; if so, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Government has all along been mindful of the residential care service needs of elders and ex-mentally ill persons. The residential care services for the elderly subsidized by the SWD aim to provide residential care for elders who, for personal, social, health and/or other reasons, cannot be adequately taken care of at home, having regard to their varying levels of care needs. There are two major types of subsidized RCHes, *viz* care-and-attention homes, and nursing homes. As regards ex-mentally ill persons, the SWD offers various kinds of residential services, including long stay care homes, halfway houses and supported hostels, to newly discharged mental patients who are unsuitable for living at home having regard to their rehabilitation needs. My reply to Mr CHEUNG Kwok-che's question is as follows:

- (a) At present, about 187 000 patients are receiving psychiatric specialist services provided by the HA. The approximate number of patients with common mental disorders is as follows:

<i>Types of mental disorders</i>	<i>Number of patients who received the HA's psychiatric services in 2011-2012 (rounded to the nearest hundred)</i>
Schizophrenia and related disorders	44 600
Affective disorders	49 500
Dementia	11 300

Note:

The total sum of the above three types of patients does not represent the total number of patients currently receiving the HA's psychiatric specialist services.

Among those patients currently receiving the HA's psychiatric specialist services, about 40 000 patients are aged 65 or above.

- (b) At present, around 450 elders aged 65 or above are receiving services at residential care homes for ex-mentally ill persons subvented by the SWD.

The SWD does not have statistics on the number of discharged mental patients residing in subsidized RCHEs.

- (c) At present, hospital clusters under the HA are providing psychiatric specialist services for mental patients aged 65 or above. Appropriate services will be arranged based on their clinical needs. The HA's psychiatric specialist services include in-patient, specialist out-patient, day training and outreach services, and so on.

For ex-mentally ill persons with residential care needs who are confirmed to be suitable for admission to residential care homes, social workers will arrange for their admission to suitable care homes according to the assessment of their attending psychiatrists. After admission, social workers of care homes will review their mental conditions from time to time. If there is a need to transfer an ex-mentally ill person to another type of care home, the social worker will consult his/her attending psychiatrist and take follow-up action to ensure that he/she receives the most suitable services. For discharged mental patients with long-term care needs who are residing in long stay care homes for ex-mentally ill persons, they will normally stay in the same long stay care homes even after they have reached the age of 65 for a continuum of care.

On the other hand, for those elders assessed to be suitable for admission to RCHEs, appropriate care services will be provided according to their mental conditions after admission. The SWD has been providing subsidized residential care services for the elderly through an integrated service mode. Even if an elder has different care needs as a result of changes in his/her health conditions, he/she can still receive continuous and appropriate services in the same RCHE.

The SWD will continue to closely monitor the use of residential services and ensure that appropriate care is given to meet the varying needs of elders and ex-mentally ill persons.

Voter Deregistration

17. **MR ALBERT CHAN** (in Chinese): *President, over the past few months, quite a number of members of public relayed to me that they had been deregistered from the register of electors without their knowledge, and that during the past few months, they had not received any letter from the Registration and Electoral Office (REO) requesting them to verify electors' information. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received by the authorities from electors in the past 12 months about deregistration from the register of electors without their knowledge;*
- (b) *of the reasons for the electors being deregistered in the cases in part (a); whether it has conducted any investigation to ascertain if the deregistration process involves any negligence or administrative errors on the part of government departments; if it has, of the details; if not, the reasons for that; and*
- (c) *whether the authorities will improve the existing policies and arrangements in order to avoid deregistration of electors without their knowledge; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, our consolidated reply to Member's questions is as follows:

In response to the concerns of the general public and the Members of the Legislative Council that some electors were suspected to have made false declaration of their residential addresses during the 2011 District Council (DC) Election, the Administration conducted a review of the existing voter registration system in late 2011 and proposed a number of improvement measures.

Subsequently, the REO implemented a series of checking measures and increased the extent of checking with effect from January this year with a view to improving the accuracy of the voter registers. These measures included strengthening the random sample check, checking cases of any registered address with more than a certain number of electors or the number of surnames of electors exceeding a certain figure, cross data matching with the Housing Department and the Housing Society to confirm the registration details of households, taking follow-up actions in respect of returned election mails and complaint cases involving suspected false addresses in the 2011 DC Election. The above measures were reported to the Legislative Council before implementation and were supported by a large number of Legislative Council Members.

Section 24(2) of the Legislative Council Ordinance (Cap. 542) provides that a person is not, by virtue of being registered as an elector in an existing final register of geographical constituencies, entitled to be included as an elector in any subsequent register of geographical constituencies if the Electoral Registration Officer (ERO) is satisfied on reasonable grounds that the person no longer resides at the residential address recorded against the person's name in that existing register and that Officer does not know the person's new principal residential address (if any) in Hong Kong. Section 28(2) of the Ordinance also provides that the ERO may omit from the final register of geographical constituencies the name of an elector if he is satisfied on reasonable grounds that the residential address last notified to that Officer is no longer the elector's only or principal residence in Hong Kong.

Following the implementation of the above checking measures, if the REO had reason to suspect that certain registered addresses might not be the only or principal residence of some electors in accordance with the information obtained, the REO would, in compiling the 2012 provisional register, make inquiries into suspected cases in accordance with the relevant Electoral Affairs Commission Regulation, and such inquiry letters were sent by registered post to the persons from whom the inquiries were made.

The REO sent out about 296 000 inquiry letters in batches before 30 April this year. As at the end of May, the REO received responses from about 41 000 electors and about 25 000 electors requested the REO to update their addresses. The remaining 230 000 electors did not respond to the REO before the statutory deadline to confirm or update their registered addresses. For the electors who

did not respond to the inquiries before the statutory deadline, the REO was satisfied on reasonable grounds that their registered addresses were no longer their only or principal residential addresses. Hence, the REO put their names and principal residential addresses on the omissions list published on 15 June 2012 in accordance with the statutory requirements.

To appeal to the electors to update their addresses in time, the REO enhanced its publicity campaign through various channels in May and June 2012. The specific measures included press releases, announcements in the Public Interests on radio and television, newspaper advertisements, posters, LED displays in MTR compartments and messages on government websites. These enhanced measures aimed at reminding the public to check the provisional register and to note the arrangement for introducing an omissions list. The registered electors were also reminded to report any changes of residential addresses or other particulars to the REO on or before 29 June 2012. At the same time, the REO published a notice in accordance with the relevant regulation on 15 June 2012 that the provisional register and the omissions list would be available for public inspection between 15 and 29 June 2012 at the ERO's Office and the District Offices. Those who felt aggrieved that their names were shown on the omissions list could make a claim to the ERO before 29 June 2012 that he or she was entitled to be registered in the final register. The ERO then delivered the notices of claim made in accordance with the relevant regulation to the Revising Officer for consideration and ruling. With the approval of the Revising Officer, the claimants' names would be included in the final register published in July 2012. Such arrangements were covered by the major newspapers and media.

Other than the above publicity and public notice, the REO on 14 June 2012 sent reminders to the 230 000 electors who had been included in the omissions list to remind them to make a claim or update/confirm their addresses on or before 29 June 2012. Some 13 000 electors made a claim or updated/confirmed their registered addresses on or before 29 June 2012 and their names and addresses were included in the 2012 final register with the approval of the Revising Officer. The remaining 217 000 electors who did not respond to the REO before the statutory deadline were struck off from the final register in accordance with the relevant electoral legislation.

All in all, the REO made written inquiries to electors to confirm whether they lived at the registered addresses and struck off the electors from the final register in accordance with relevant electoral legislation. Apart from issuing public notice and arranging for public inspection of the provisional register and omissions list in accordance with the relevant electoral legislation, the REO also made repeated and extensive appeals through various channels to remind the electors concerned to respond or make a claim.

To maintain the accuracy of the electors' registered addresses in the voter registers, the REO will continue to implement checking measures in 2013 to confirm whether the registered addresses recorded are the electors' only or principal residential address in Hong Kong. Apart from issuing inquiry letters to the electors concerned in accordance with the checking results and electoral legislation, the REO will continue to enhance publicity measures to remind electors to whom the ERO has made inquiries to update/confirm their registered address so that they will not lose their eligibility for registration and voting rights. Besides, electors may call the hotline of the REO at 2891 1001 during office hours to enquire about their eligibility or to update their registered particulars.

Review of MPF Schemes

18. **MR PAUL TSE** (in Chinese): *President, recently, the Consumer Council (CC) published the performance of 341 fund schemes under the Mandatory Provident Fund (MPF) Schemes for the past five years. With a membership size of 2.35 million and accrued benefits accumulated so far standing at \$384.3 billion, such fund schemes yielded an overall rate of return of only 2.7% per annum but their annual average charging rate was as high as 1.74%, which was substantially higher than the relevant charging rates of some countries (1.19% for the United Kingdom and 0.56% for Chile). A newspaper report entitled "MPF contributions have no prospect of recovery of losses" has pointed out that "half of the funds have 'incurred' losses on the part of wage earners", but there are numerous investment methods yielding much higher investment returns than MPF. A number of members of the public have also telephoned radio programmes, expressing their discontent with MPF and requesting the Government to completely abolish the MPF Schemes. Regarding the policies and measures for protecting the overall retirement fund contributions made by employees, will the Government inform this Council:*

- (a) *whether, in view of the situation that nearly half of the fund schemes (46.6%) have incurred losses and the charging rates of fund schemes are higher than those of other countries, it will immediately review the actual effectiveness of the MPF Schemes and examine the feasibility of abolishing the MPF Schemes or replacing the MPF Schemes with other retirement protection schemes; whether the Government will set any deadlines and bottom lines (for example, the charging rates of fund schemes have to be lowered to a level that is close to those of countries such as the United Kingdom and Chile, and so on, prior to a certain deadline, and the number of loss-incurring funds has to be capped at a certain percentage of the total number of funds) and listen to and assess the views of members of the public in order to objectively examine whether the MPF Schemes should be abolished completely; if it will, how and what bottom lines will be set by the Government and how the views of members of the public will be listened to and assessed; if not, of the reasons for that;*
- (b) *given that quite a number of members of the public have pointed out to me that the effectiveness of the MPF Schemes has been far from satisfactory for a long time and that they have to pay high fund fees irrespective of whether or not they make profits which always result in gains on the part of the trustees, and as such, the MPF Schemes not only cannot offer effective protection for their retirement life but instead gradually undermine their ability to cope with it, which have led to widespread discontent against the MPF Schemes in society and growing public sentiments calling for the abolition of the MPF Schemes, whether the Government has conducted any studies or reviews on this situation; if it has, of the results of the reviews; if not, whether it will immediately conduct such reviews; what methods are in place to convince members of the public that the Government requiring them to make mandatory contributions to the MPF Schemes can effectively protect their retirement life;*
- (c) *whether it has conducted any study on amending the Mandatory Provident Fund Schemes Ordinance (Cap. 485) to require that fees charged for fund schemes should be linked with investment performance, and that for fund schemes which have incurred*

investment losses, clients should be exempted from management fees or subsidized with management fees for the year after the loss-incurring year, so that part of the investment risks will be shared by fund trustees and competition will be promoted among them, and at last, only quality trustees will survive; and

- (d) *given that the Mandatory Provident Fund Schemes Authority (MPFA) incurs an expenditure of around \$400 million each year but it has never implemented any effective policies resulting in fund schemes lowering the management fees charged to clients, nor has it conducted any one-stop assessments on the performance of funds, and it has only taken follow-up actions upon the CC's announcement of its study results, whether the Government has assessed if the MPFA is competent in discharging its duties and whether the annual expenditure of \$400 million is used in a value-for-money manner and put to proper uses; also, whether the Audit Commission will conduct a value-for-money audit on the MPFA?*

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

- (a), (b) and (c)

The MPF System in Hong Kong is consistent with the second pillar in the pension model advocated by the World Bank, that is, "mandated, privately managed, fully-funded defined contribution scheme". Before implementation of the MPF System in 2000, only one third of the workforce had retirement protection. At present, 85% of the working population are covered under MPF schemes and other retirement protection schemes which provide retirement protection to various degrees. As at 30 June 2012, the annualized internal rate of return of the MPF system, after deduction of fees, is about 2.7% per annum while the change in the annualized Composite Consumer Price Index over the same period is 1.2%.

Both the Government and the MPFA fully appreciate the strong public sentiment that MPF fees should be reduced, especially against

the less than satisfactory return of MPF funds amidst the volatile global economy over the past few years. In fact, the Government and MPFA have been striving to enhance the MPF System and to reduce fees through measures to enhance the transparency of market operations and promote competition, including adopting a uniform approach for fee calculations, that is, Fund Expense Ratio (FER), and making regular publication of the FER of each MPF fund which exerts pressure on the industry to reduce fees. Since 2008, the average FER has decreased by about 18% in overall terms.

The next stage will be the implementation of the Employee Choice Arrangement (ECA) on 1 November 2012, following which the size of MPF assets transferable by employees will increase from 40% of the total net asset values of all MPF schemes to over 60%, which is expected to add pressure on trustees to further reduce their fees. At present, the MPFA has set up the Fee Comparative Platform and the Trustee Service Comparative Platform which are accessible via its website to facilitate scheme members' comparison of fees and trustee services. Both platforms include a hyperlink to the website of the Hong Kong Investment Funds Association where information on the investment performance of individual MPF funds is available for public reference. In tandem with the implementation of ECA, the MPFA will make available a list of MPF funds with lower fees for public information via its website as from the end of this year. Furthermore, the MPFA will enhance public education and remind scheme members to carefully take into account relevant factors in deciding whether or not to transfer their accrued benefits to another scheme or fund, including the fees of the relevant schemes, the risk tolerance of the scheme member concerned, the service levels of the trustees concerned, and so on.

The overall FER will come down if more scheme members choose to transfer their accrued benefits to funds with lower fees under ECA. And there will be room for further fee reduction with the growing scale of the MPF System. We will continue to monitor the market situation closely, and enhance the regulatory arrangements as appropriate.

On the other hand, in parallel to the preparation for the implementation of ECA, the MPFA has, at the request of the Government for a comprehensive review of the MPF System, formulated the scope of the overall review, which includes a study on the administrative cost of trustees. The MPFA plans to submit a report to the Government by the end of this year, setting out the study results and recommendations on improvement measures. The comprehensive review also covers examination of various other proposals, including regulating the fee level by, say, imposing a cap on fees. At this stage, the Government will keep an open mind on any proposal that can lower MPF fees and will actively follow up on the MPFA's report, when available.

As a retirement protection system, the MPF System has not yet reached a mature stage in terms of both the institutional arrangements and the overall level of accrued benefits. The Government and MPFA will continue to pursue various means to facilitate reduction in trustees' fees and to enhance the MPF System.

- (d) The MPFA is established under the Mandatory Provident Fund Schemes Ordinance to regulate the MPF System. The above paragraphs have set out its efforts on lowering the fees of MPF schemes by enhancing market transparency and promoting competition and the results achieved. The Ordinance has incorporated a number of safeguards as regards the corporate governance of the MPFA, which include: the Management Board of the MPFA which is responsible for making major policy decisions and monitoring the daily operation of the MPFA, comprises a majority of non-executive directors appointed by the Chief Executive; the Management Board is required to submit annual report, corporate plan and budget to the Financial Secretary; and the MPFA is required to appoint an auditor to audit its accounts, which, together with its annual reports, are to be released to the public. In addition, the MPFA has set up an Audit Committee comprising non-executive directors to examine the MPFA's annual financial statements, reports on internal control and internal audit programme. The MPFA will continue to enhance the MPF System.

Measures to Boost Home Ownership

19. **MR FREDERICK FUNG** (in Chinese): *President, as revealed by statistics from the Rating and Valuation Department, the price and rental indices of private domestic properties have been rising continuously for seven months. The latest price index (for August) has reached a record high of 210.6, which is higher than that of 172.9 during the peak of the bloom in the property market in 1997 by over 20%, and that of 179.8 in January this year by 17%, as well as that of 206.1 upon the inauguration of the Government of the new term in July by more than 2%. The price surge of small flats (that is, Type A flats with a usable area of less than 40 sq m or 430.5 sq ft) is most remarkable, as shown by a rise of the price index from 185.6 in January to 222.9 in August this year, or a rate of increase as high as 19%. The latest rental index reached 146.5 in August, representing a rise of 10% when compared to 133.2 in January. Moreover, the Centa-City Leading Index, which reflects price movements in the second-hand property market, has also hit record high time and again over the past couples of weeks. In this connection, will the Government inform this Council:*

- (a) *whether it has analysed and assessed the reasons for the continuous price spiral of private domestic properties, and the impact of the third round of quantitative easing monetary measures launched in the United States on the price and rental of private domestic properties in Hong Kong; whether it has assessed if the current price and rental of domestic properties have gone beyond the affordability of members of the public; if there is such a situation, whether it has assessed its impact on society and people's livelihood, and whether any concrete short-term, medium-term and long-term measures will be put in place to improve the situation;*
- (b) *given that property prices have hit record high time and again despite the series of measures launched by the Government of the new term to stabilize the property market since its inauguration, whether the authorities have evaluated the effectiveness of these measures; given that some members of the public have pointed out that the arrangement to allow white form (WF) applicants to purchase flats under the Home Ownership Scheme (HOS) with premium not yet paid in the HOS secondary market has obviously pushed up the prices of such kind of flats, whether the authorities*

have assessed if the above measures have been implemented for the sake of expediency without careful consideration, resulting in an effect going contrary to their expectation; and

- (c) *whether, in formulating measures to stabilize the property market, the authorities have considered factors such as the level of property prices and the affordability of members of the public, and so on?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my consolidated reply to Mr Frederick FUNG's question is set out below:

As the Chief Executive pointed out in his manifesto, housing is the livelihood issue which is of prime concern for most in the community. Decent housing is the foundation of a stable society. As such, addressing the housing issue is one of the top priorities of the current term Government. In fact, the Government has been responding to the situation through the introduction of long, medium and short-term measures in four areas, namely, increasing land supply; combating speculative activities; enhancing the transparency of property transactions; and preventing excessive expansion in mortgage lending, with a view to ensuring the healthy and stable development of the property market.

Fuelled by the abundant liquidity and low interest rates, overall flat prices have risen by 20% during the first nine months of 2012, despite a general slowdown in the global and local economy over the same period. This clearly suggests that the property market and the local economy are heading in different directions. Indeed, with prices rising significantly beyond income growth, property prices have risen to a level that is beyond the affordability of the general community. With the announcement of the third round of quantitative easing measures by the USA, there is a growing risk from renewed funds flowing into Hong Kong lately. This in turn will have further pressure on the property market, which had become even more exuberant. Thus the risk of a property bubble forming has increased. Left to itself, this situation could undermine the macroeconomic conditions of the community as well as the stability of our financial system, thus threaten people's livelihood. Even with prevailing low interest rates, the affordability ratio has increased to 50% as suggested by the preliminary figures for the third quarter of 2012. If interest rates were to go up

by three percentage points to the level before the financial crisis in 2007, the ratio would shoot up to 65%, far exceeding the average of 50.4% in the past 20 years.

In view of the above development, the Financial Secretary launched a new round of demand-side management measures on 26 October 2012. He stated that the property market and the local economy are heading in different directions. The objective of the two new measures is to help alleviate the demand for housing by addressing the needs of Hong Kong Permanent Residents (HKPR) and further curb short-term speculative activities, under the exceptional circumstances of an overheated property market.

Specifically, the Government will amend the Stamp Duty Ordinance to adjust the duty rates and extend the coverage period in respect of the existing Special Stamp Duty (SSD), and introduce a Buyer's Stamp Duty which will be charged at a flat rate of 15% for all residential properties acquired by any person (including companies), except a HKPR. This will be levied on top of the existing stamp duty and SSD, if applicable. We have issued a Legislative Council brief to this Council on 26 October 2012 to explain our proposals. We will provide further details at the joint meeting of the Housing Panel and Financial Affairs Panel scheduled for 2 November 2012.

There is no doubt that the fundamental issue that must be tackled to address the current the housing situation is the land supply. We will continue with our efforts to increase land and flat supply to tackle the problem at source. Since 2010, through the Steering Committee on Housing Land Supply chaired by the Financial Secretary, the Government has been working to expand land resources for housing development. These include releasing suitable industrial land, "Government, Institution or Community" (G/IC) sites, other government sites and green belt areas for housing development. With these efforts, the supply of residential flats for the next three to four years is expected to increase to some 65 000 units.

In August/September 2012, the Government also announced a basket of short and medium-term measures to address the fundamental issue of land and flat supply, including switching the rent-to-buy scheme to direct sale for flats at the Hong Kong Housing Society's Tsing Luk Street development, selling 830 unsold HOS flats early next year, releasing 36 G/IC and government sites for residential use, exploring measures to facilitate revitalization of industrial

buildings for transitional residential use, and introducing the "Hong Kong property for Hong Kong people" policy to be piloted at two sites in Kai Tak Development Area.

For the medium to longer term, we have identified more suitable sites for development purposes, including housing. These include a number of new development areas (for example, the North East New Territories, Hung Shui Kiu and Tung Chung New Town Remaining Area), various quarry sites, Kam Tin West Rail Kam Sheung Road Station/Pat Heung Maintenance Depot and adjoining areas, and agricultural land in North District/Yuen Long currently used mainly for industrial purposes or is deserted. In addition, the Government is also exploring options for reclamation outside of Victoria Harbour and using rock caverns for relocating existing public facilities (for example, sewage treatment works) to release sites for housing development.

Government has also taken steps to help address the home ownership needs of the eligible buyers with WF status before new HOS flats are completed in 2016-2017, and to facilitate the turnover of HOS flats. The Chief Executive announced in July 2012 that starting from next year, 5 000 buyers with WF status will be allowed each year to purchase HOS flats with premium not yet paid on the HOS Secondary Market. There are currently more than 250 000 HOS flats, 120 000 Tenants Purchase Scheme flats and 9 000 Flat-for-Sale Scheme flats with premium not yet paid on the Secondary Market. We consider that the rise in property prices in the past few months was caused by a series of factors as mentioned above. We will review the effectiveness of the initiative to allow 5 000 buyers with WF status each year to purchase HOS on the Secondary Market after its implementation, taking into account feedback on the initiative.

Maintaining a healthy and stable property market is an important issue for the Government. We shall continue to monitor the market closely. If the property market development continues to deviate from economic fundamentals, we shall introduce further measures to maintain the healthy and stable development of our market to safeguard our social and financial stability.

Voluntary Health Protection Scheme

20. **MISS ALICE MAK** (in Chinese): *President, the Government of the last term conducted several rounds of consultation on healthcare reform and*

proposed to take forward a Health Protection Scheme (HPS) based on voluntary participation, with a view to providing supplementary financing for the healthcare system. The Government of the last term also pointed out that the provision of tax incentives for private health insurance premiums and private healthcare expenses would create the following problems: (i) providing tax deduction to health insurance premiums under HPS but not premiums for other health insurance products would violate the neutral and fair principle of the tax regime of Hong Kong; (ii) providing tax deduction to all policy-holders of other private health insurance schemes or to all private healthcare expenses would further narrow the tax base of Hong Kong; (iii) tax incentive was by nature regressive and relevant only to a relatively small proportion of the higher-income population where penetration of private health insurance was already high; and (iv) tax deduction for health insurance premiums in general or HPS premium in particular provided financial incentive for the working population only during their working age, but did not incentivize premium payment after their retirement when they might no longer have an income while their premium was much higher. It has been reported that the Secretary for Food and Health has indicated earlier that he would not rule out the possibility of providing working persons with tax concessions for a fixed number of years to attract members of the public to take out health insurance. In this connection, will the Government inform this Council:

- (a) of the details of the aforesaid tax concession scheme, including the level and number of years of concessions need to be provided in order to achieve the objective of attracting more members of the public to take out health insurance, and whether the concessions are applicable to health insurance plans under HPS only or to other health insurance plans as well;*
- (b) how the four problems highlighted by the Government of the last term could be resolved so that the aforesaid tax concession scheme may be taken forward; of the anticipated impact of the provision of tax concessions on the Government's tax revenue; and whether the authorities will make corresponding revisions to the tax regime; and*
- (c) as it has been reported that the authorities have already commissioned an independent consultant to conduct a study on the implementation details of HPS, when the report is expected to be*

published; whether the authorities will consult the public on the proposals made by the consultant; if they will, of the details; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Food and Health Bureau put forth a voluntary, government-regulated HPS in the Second Stage Public Consultation on Healthcare Reform in 2010. The HPS aims to complement the public healthcare system by providing more choices with better protection to those who are able and willing to pay for private health insurance and use private healthcare services. As the outcome of the Public Consultation revealed, the public generally considered that the HPS could provide value-for-money choices to the community and 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. Based on the outcome of the Public Consultation, we are now formulating detailed proposals for the HPS. We plan to put forward a concrete proposal in 2013 and seek the community's views on the proposal.

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

(a) and (c)

A Working Group and a Consultative Group on the HPS have been set up under the Health and Medical Development Advisory Committee (HMDAC). The Working Group will make recommendations on matters concerning the implementation of the HPS, including supervisory and institutional frameworks, key components of the HPS standard plans, and rules and mechanism in support of the operation of the HPS as well as various feasible options for provision of public subsidies or financial incentives for implementing the HPS, including provision of tax incentives, to encourage the young and healthy and all potential participants to join the HPS early. The Working Group will be supported by the Consultative Group, which will collect views and suggestions from the wider community and pass them to the Working Group for reference and consideration. The Working Group is expected to

complete its various studies and submit to the HMDAC the detailed proposals on the HPS by 2013.

To facilitate the work of the Working Group and Consultative Group, we have commissioned a consultancy study on the HPS in order to provide professional and technical support to the Working Group and the Consultative Group. The Consultant will perform a comprehensive and detailed review, survey and analysis of the current market situation of private health insurance in Hong Kong, and propose a feasible, sound and detailed design for implementing the HPS.

In working out the details, the Consultant will study in detail various feasible options for provision of public subsidies or financial incentives for the HPS. The Consultant will make recommendations having regard to a number of inter-related factors, including the estimated number of subscribers to the HPS, the age groups that the subscribers may belong to and their financial status, the estimated premium of the HPS standard plan, as well as overseas experience. Findings from the consultancy study will be published for public information as part and parcel of the work of the Working Group.

- (b) In the light of the recommendations made by the Working Group, Consultative Group and the Consultant, as well as views received from various sectors of the community, we will thoroughly consider the various options for use of public funding or provision of financial incentives to support the implementation of the HPS, including provision of tax incentives. We will analyse the various options in terms of their necessity, feasibility, effectiveness, the number and scope of beneficiaries as well as the impact on the Government's finance while also taking into account other related factors including but not limited to the following:
 - (i) the use of public funding should contribute to and facilitate the achievement of the policy objectives of the HPS through incorporating key features in the HPS plans, such as no turn-away of subscribers and guaranteed renewal for life;

covering pre-existing medical conditions subject to waiting period; and setting up a high-risk pool mechanism for sharing the risks arising from accepting high-risk groups, and so on;

- (ii) the use of public funding should be conducive to the long-term sustainability of our healthcare system, including encouraging the young and healthy to participate in the HPS;
- (iii) any provision of public subsidy or financial incentives should be considered on the basis of prudent and sustainable use of public funding, bearing in mind any possible pitfalls or adverse effects that may arise. For instance, the provision of public subsidies might aggravate moral hazards in using private health insurance and private healthcare services, hence contributing to medical inflation. Considerations should also be given to ensure that the public funding would benefit the insured and the community at large; and
- (iv) possible options of public subsidies or financial incentives should be developed in consultation with all stakeholders concerned.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. There are a total of three Members' motions for this meeting.

First Member's motion: Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending three items of subsidiary legislation relating to the expansion of the legal aid schemes, which were laid on the table of this Council on 10 October 2012.

I now call upon Mr Dennis KWOK to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR DENNIS KWOK (in Cantonese): President, in my capacity as the Chairman of the Subcommittee on Legal Aid (Amendment) Regulation 2012, Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2012 and Legal Aid Ordinance — Resolution of the Legislative Council (Commencement) Notice, I move that the motion under my name, as printed on the Agenda, be passed.

As the Subcommittee needs more time for the scrutiny, I urge Members to support the motion of extending the scrutiny period of those items of subsidiary legislation to 28 November 2012.

I urge Members to support the motion. Thank you, President.

Mr Dennis KWOK moved the following motion:

"RESOLVED that in relation to the —

- (a) Legal Aid (Amendment) Regulation 2012, published in the Gazette as Legal Notice No. 145 of 2012;
- (b) Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2012, published in the Gazette as Legal Notice No. 146 of 2012; and
- (c) Legal Aid Ordinance — Resolution of the Legislative Council (Commencement) Notice, published in the Gazette as Legal Notice No. 148 of 2012,

and laid on the table of the Legislative Council on 10 October 2012, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 28 November 2012."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Dennis KWOK be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): The second and third Members' motions. These are two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): Second Member's motion: Raising the minimum wage level to \$33 or above per hour.

PRESIDENT (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr Frederick FUNG to speak and move the motion.

RAISING THE MINIMUM WAGE LEVEL TO \$33 OR ABOVE PER HOUR

MR FREDERICK FUNG (in Cantonese): President, as we are engaging in a debate in this Chamber today in a dignified manner, I believe we still remember how we felt when we left school, either secondary school or university, and stepped into society, looking for a job. What were our dream jobs at that time? I think all wage earners would want to find a job which meet the following two criteria: first, the salary is sufficient to allow us to lead a self-sufficient life; second, the job offers a good prospect of promotion and pay rise so that when we get married later, we can afford to feed our families and pay for our children's education. In my view, it is not in the least unreasonable for wage earners to have this wish. We may even say that it is perfectly right for them to think so.

Today, I may say that all Members here, including the President, have your "dreams come true". But have you ever looked back and see how many wage earners are still struggling, in particular at a time before the introduction of the minimum wage two years ago? At that time, some wage earners did not only work eight hours a day, they had to work overtime for 10 or even 12 hours a day. While some may have four days of holidays a month, some only get two. Throughout the year, apart from holidays, wage earners have dedicated most of their time to their bosses. Some may have worked for the same company for eight or 10 years or even their whole life. Yet, can their devotion of time, efforts and youthful days give them reasonable returns, so that they can at least make ends meet and have the most basic living standard?

In saying "the most basic living standard", I mean the most basic living standard in this affluent society of Hong Kong today. In return for their hard work, wage earners should at least be able to support himself, which means paying for medical care, food, accommodation and transportation. In addition, wage earners should also have money and time for dating, getting married and

raising children. Of course, nowadays families can hardly live on a single income, both the husband and wife must go out to work as they want to have their own flat and provide reasonable living conditions, including schooling, to their children. Some may say that such dreams are too luxurious for wage earners, as neither their bosses nor the Hong Kong society can afford to make such dreams come true. But is it true?

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

Let us consider some simple and basic figures to see if it is true that in Hong Kong, wage earners who are really willing to work cannot truly support themselves and their families. In 2011, the GDP per capita of Hong Kong was US\$33,000, that is, around HK\$240,000. In other words, if the total income of Hong Kong last year was equally shared by Hong Kong people, including babies, everyone of us would have a monthly income of \$20,000. From this perspective, how can wage earners in Hong Kong fail to support their families?

The crux of this issue lies in wealth gap, while some are very rich, some are so poor that they cannot even make ends meet. For those who have spent most of their time working hard so that their boss can make money, they have indeed contributed indirectly to Hong Kong's prosperity. But have they got reasonable returns? I do not think so.

Then, by setting a minimum wage, are we drawing the first bottom line based on some basic principles and conditions? Last time, when the minimum wage was set at an hourly rate of \$28, both the labour sector and we, the Hong Kong Association for Democracy and People's Livelihood (ADPL), considered it too low. We proposed the rate of \$33 per hour. However, in order to take the first step to establish the system, we were forced to yield and accept the rate of \$28 in tears unwillingly. When I move this motion today, I still propose an hourly wage of \$33 as we proposed two years ago. Although the inflation rate of the past two years has reached 13%, pushing up the living cost, we still stick to our old proposal of \$33 per hour because the business sector is not even willing to accept the initial rate of \$28. As the rate of \$33 was calculated based on the basic living costs of a person two years ago, when we propose the rate of \$33

again this year, this rate has indeed been eroded by inflation by 13% if compared with the same rate two years ago.

Deputy President, I think you have a closer relationship with the business sector than the labour sector, so you should know better about the viewpoints of the business sector. I now try to restate the six major reasons given by the business sector in opposing to the introduction of minimum wage when we discussed this topic two years ago. One of the reasons was that introducing a minimum wage would definitely cause inflation. However, is minimum wage the major cause of a higher inflation rate in Hong Kong? According to a number of scholars and financial practitioners, inflation in Hong Kong is mainly caused by two major causes. Firstly, European and American countries, and even the Mainland government as well, have all kept on printing money. The money printed in the past two years is enough to drown the whole world.

The second cause is the overly rapid and sharp increase in rental in Hong Kong. Being the chairman of a non-governmental organization (NGO) which operates three social enterprises, I am very concerned how those social enterprises can survive because the rents may go up 60% or 80% in the future. Therefore, inflation is not caused by minimum wage.

Next, the business sector once claimed that some labour-intensive businesses, such as Chinese restaurants, would experience waves of closures if minimum wage was introduced. But is it true? Was there any wave of closures in the past two years? The answer is no. The business sector also said that with the introduction of minimum wage, many businesses would close down or "wind up"; the boss would flee or be driven to the wall. But is it true? In fact, things turned out the opposite way. We have not heard of such cases, and in fact the situation in the past two years was better than before.

Furthermore, they claimed that — this is the fourth reason — employers would lay off their staff to cope with the increase in wages and thus more people would lose their jobs. But is it true? I will later give you some relevant figures. According to the business sector, the introduction of minimum wage would drive up the unemployment rate and would be detrimental to the disadvantaged workers because, given that all workers would at least be paid \$28 an hour, employers would definitely pick those in their twenties or thirties in

recruitment, but not workers over 50 or even those in their forties. Middle age workers would suffer badly. But is it true?

Let me tell you: none of the above claims on unemployment has come true. Let me cite some figures. After the introduction of minimum wage, the latest unemployment rate still stands at the considerably low level of 3.3%, which may even be described as full employment. Over the last year, the unemployment rate has not been affected by minimum wage at all. On the contrary, an increasing number of middle-aged or senior workers are willing to join or have joined the labour market. This phenomenon is particularly obvious among elders. While they have originally planned to retire, they now find that they still have job opportunities which offer them an attractive salary.

I think the Government is also aware of the fact that 80 000 women from low-income families have joined the workforce over the past year. I also want to tell you that the respective numbers of new immigrants and single-parent families applying for the Comprehensive Social Security Assistance (CSSA) have dropped by 4% and 14% over the past year. In other words, more new immigrants and single parents have succeeded in job hunting. Why, why, why? When the business sector kept saying that it was wrong, inappropriate or improper to introduce a minimum wage, facts have proven that they are wrong. However, I think legislators from the business sector will continue to play up these six major reasons in attacking, restraining and refusing the lifting of the minimum wage rate.

Deputy President, I hope the figures that I just gave can prove to you that minimum wage is not a scourge or a bad thing. On the contrary, minimum wage is a positive means to encourage wage earners to work harder and make a living by themselves. If they can feed themselves and their families with their own efforts, they will not just do nothing and ask the Government for CSSA.

Lastly, I have to point out that according to the statistics of the Census and Statistics Department, the average working hour of our wage earners is now 44.2 hours a week. In other words, the introduction of minimum wage has not resulted in a reduction of working hours. This figure, together with other figures mentioned above, shows that minimum wage has brought us some positive, reasonable and desirable effects. However, I must say that there is a deficiency, that is, it fails to reduce the wealth gap. According to a foreign survey on Hong

Kong, our Gini Coefficient, which measures the inequalities of wealth, is higher than before, mounting to the level of 0.537. It suggests that when wage earners have got a better income, businessmen and the wealthiest professionals have earned a much better income. In other words, while all of us have a higher income, the increase in income is much prominent for businessmen and wealthy professionals. As a result, the wealth gap has been widened but not reduced.

According to The Hong Kong Council of Social Service (HKCSS), the number of poor people has dropped from 1.23 million last year to 1.15 million this year. I truly believe the minimum wage has helped 80 000 poor people who once lived below the poverty line drawn by the HKCSS to get rid of poverty.

As the Government is now considering whether or not to accept an hourly rate of \$30 as recommended by the Minimum Wage Commission (MWC), I will try to figure out what our supremo, that is, Chief Executive LEUNG Chun-ying, thinks about minimum wage. Please let me read out a quote from LEUNG Chun-ying on the issue of minimum wage. When LEUNG Chun-ying was still the Convenor of the Executive Council, he voiced his support to the introduction of minimum wage, even if it would mean a violation of the collective responsibility system of the Executive Council. To my surprise, his view was pretty much the same as that of the ADPL and the labour sector. In one of his articles at that time, he said (and I quote): "Given the reality of Hong Kong, setting a minimum wage for people in the lowest stratum of society by way of legislation can protect the livelihood of people with the least bargaining power. Meanwhile, it is conducive to the harmony and long-term stability of our entire society. The primary purpose of setting a statutory minimum wage is to alleviate working poverty." (End of quote) What a good point! Excellent!

However, I am deeply concerned about the current situation. After LEUNG Chun-ying has become the Chief Executive, will he be brave enough not to take the recommendation of the MWC but make an amendment based on his conscience and his responsibility to society and turn down the proposed rate of \$30? Or is he "all talk but no action"? Or is he just trying to solicit votes with empty words but will take action to benefit the business sector? We will keep a close eye on him.

I move the motion.

Mr Frederick FUNG moved the following motion: (Translation)

"That this Council urges the Chief Executive to raise the minimum wage level to \$33 or above per hour, and shorten the frequency of review from 'once every two years' to 'once every year'."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Frederick FUNG be passed.

DEPUTY PRESIDENT (in Cantonese): Three Members wish to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the three amendments.

DEPUTY PRESIDENT (in Cantonese): I will first call upon Ms Cyd HO to speak, to be followed by Dr Fernando CHEUNG and Mr CHEUNG Kwok-che respectively; but they may not move the amendments at this stage.

MS CYD HO (in Cantonese): Deputy President, the reason for the three of us from the Labour Party to propose amendments separately is that when this Council scrutinized the Minimum Wage Ordinance (MWO) in 2010, we had proposed similar amendments in the Committee stage but they were all voted down.

As the MWO has been effective for some time, and the minimum wage level of \$28 per hour has also come into effect since May 2011, we should take the chance of review to examine if there are any deficiencies in the enacted legislation and bring them up for discussion. It will allow the Government to reconsider our viewpoints and make the necessary legislative amendments expeditiously. I am really grateful to Mr Frederick FUNG for moving this motion today.

Deputy President, please let me explain one point first. Today, Mr LEE Cheuk-yan, Chairman of the Labour Party, has not proposed any amendment and will not participate in voting because he has gone abroad for a meeting.

However, the other three of us from the Labour Party have each proposed an amendment. My two fellow colleagues will later explain their amendments when they deliver their speech.

Why do the three of us from the Labour Party have to propose a total of three amendments instead of having anyone of us to propose a consolidated amendment? This is because we want to facilitate your voting by allowing you to consider our proposals in these three amendments separately. Of course, we hope that you would vote in favour of all our proposals in the amendments; yet, if you disagree to any particular proposal and our amendments have been consolidated, you may have to vote against the entire amendment and that is not what we want to see.

Now, I will explain why I propose an amendment to repeal section 16(4) of the MWO. It is a provision providing that the Chief Executive in Council may, by notice published in the Gazette, amend Schedule 3 to revise the hourly wage rate and the effective date. I urge for its deletion because I want to defend the power of the Legislative Council in checking the executive authorities, and this is the very provision which deprives the Legislative Council of its power to revise the hourly wage rate and the effective date specified by the Chief Executive by notice published in the Gazette.

I will now read out section 16(4): "Section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) applies to a notice under subsection (1)" — that is, the notice to amend Schedule 3 — "as if: (a) for the words 'amended in any manner whatsoever consistent with the power to make such subsidiary legislation' there were substituted the words 'wholly revoked'; and (b) for the words 'to be amended' there were substituted the words 'to be wholly revoked'."

Deputy President, when I read out the provision in this way, it is certainly out of context. The intention of this provision is that if the Legislative Council wants to revise the notice so published by the Chief Executive in the Gazette, it is only allowed to revoke, but not amend, the minimum wage rate. In other words, we can just "take it" or "leave it". It is just like the case of the Old Age Living Allowance in hot debate recently: either "take it" or "leave it". If we consider the minimum wage rate unreasonable or insufficient and want to raise it, sorry, the Legislative Council does not have the necessary power to do so under section 16(4). Yet, the option of revocation will put us in a dilemma because in

doing so, the existing minimum wage protection, though unreasonable, will be gone.

Deputy President, under the legislation, when can the Legislative Council do good to the people by exercising the power conferred by section 16(4)? It is only possible in times of deflation. If the Chief Executive holds that the minimum wage rate should be lowered as prices go down in times of deflation, and specifies a rate lower than the prevailing rate of minimum wage by publishing a notice in the Gazette, the Legislative Council may then step in by exercising its power to revoke the minimum wage rate specified in the notice to help the people since this power can stop the Chief Executive from lowering the minimum wage rate. On the contrary, the Legislative Council cannot do anything to help in times of inflation because the Legislative Council is not allowed to lift the rate but can only revoke it.

Deputy President, in the past, there were much more "inflation years" than "deflation years". In other words, the power for the Legislative Council to stop the Chief Executive from lowering the minimum wage rate in times of deflation can seldom be used. In 2010, when the Government lobbied other parties to oppose our amendments, it said that it would set up a minimum wage commission (MWC) comprising three officials and three representatives from the academic, business and labour sectors respectively. It also emphasized that the determination of the minimum wage rate would base on objective and scientific statistics. What are these statistics? They are wages, working hours, economic performance of different industries, employment rate, unemployment rate, and may even include data on quantitative easing in the United States. However, the MWC has never developed a formula for the determination of the minimum wage rate.

While the Government emphasizes that an evidence-based approach will be taken, recently there has been a news report saying that although the MWC was provided with relevant statistics, its members were indeed making political judgments in the interests of their sectors; therefore, they often had heated fights at meetings. How were these fights ended? They were ended by the Chairman coming up with a rate, and then he asked the members to stop the fight and indicate whether they would accept his suggested rate or not.

However, the final decision on whether that rate is accepted or not does not lie with the Chairman since there is a person with greater power. This person is the Chief Executive. Under this piece of legislation, the Chief Executive can do whatever he wants because he is not obliged to accept the recommendation of the MWC. According to section 16(2) of the MWO, "In exercising a power under subsection (1), the Chief Executive in Council may have regard to any recommendation included in a report made under section 12(1)" — that is, regarding the MWC's recommendation — the Chief Executive "is not bound by the recommendation."

From this provision, we can see that the final decision made by the Chief Executive is still a political one. If the reason for not allowing revisions from the Legislative Council is that the MWC is a professional body which will recommend on the minimum wage rate based on statistics, we may still discuss about this arrangement, and perhaps, we will accept it. However, when the recommendation of the MWC is a political decision and the final decision made by the Chief Executive is political in nature, being a member of the Legislative Council, I think we must keep our power to check the Chief Executive.

Although LEUNG Chun-ying holds a more positive attitude towards poverty alleviation than Donald TSANG Yam-kuen, he insists on introducing an assets test to the Old Age Living Allowance in recent discussions. Therefore, we cannot be so blind or so naïve as to believe that he will consider people's needs when he exercises such a great power.

Deputy President, in the Report of the Subcommittee to Study Issues Relating to the Power of the Legislative Council to Amend Subsidiary Legislation (the Report) issued by the Legislative Council in February 2012, the Government has given its views on the Legislative Council's power to amend subsidiary legislation. In paragraph 4.4(b), it is remarked that "detailed and technical nature of the rules: where the legal rules in question are it would be useful for the rules to be made by those persons who have expertise in the technical/professional field". This remark suggests that if the legal rules are made by relevant professionals, the Legislative Council should not take back the power of making these rules.

However, as I have just said, the MWC is only a body which makes closed-door political decision. Therefore, it does not fall within the scope as

advocated by the Government mentioned above. According to the Report, the Bar Association had given the following view: "the public importance and constitutional significance of the measures, that is, the more it touches on questions of broad public importance and controversy, the greater will be the need for scrutiny". In other words, the Bar Association agrees that the Legislative Council should keep its scrutiny power on the issue of minimum wage.

Deputy President, when the Industrial Revolution first started in Europe in the early 18th century, there was a political arithmetic school advocating that "the poor must be kept in persistent poverty and insufficiency to make them work honestly". This was the view in the early 18th century. In the early 19th century, David RICARDO pointed out that "As the Industrial Revolution develops, workers are always the losers; they always live in poverty and struggle to make ends meet. Eventually, industrialists and capitalists will also find that they make less money than landlords do."

It is surprising that the situation in the early 18th century still applies to the present-day Hong Kong. Workers give their labour but are not offered a reasonable wage in return to make ends meet in areas of clothing, food, accommodation and transportation owing to expensive basic necessities. Deputy President, it is really a misfortune and the Government has a role in it since it often sides with developers to safeguard their interests. As a result, the misery in the early 18th century repeats itself in today's Hong Kong. Therefore, I must exercise the power of the Legislative Council to check the Chief Executive.

Thank you.

DR FERNANDO CHEUNG (in Cantonese): I have to thank Mr Frederick FUNG for proposing this motion on "Raising the minimum wage level to \$33 or above per hour". We agree to the minimum wage rate of \$33 per hour as proposed in the motion because it is determined by the basic needs, the CSSA level, as well as the needs of workers and their families. Judging from the current inflation rate, an hourly minimum wage of \$33 is actually very minimal. Unfortunately, we still cannot raise the minimum wage to this level. Furthermore, the Commodity Price Index on which the minimum wage rate is

based has lagged behind by two years. In other words, there is serious problem with the existing mechanism.

Deputy President, my amendment is concerned with persons with disabilities and it is mainly divided into two parts. In the first part, I pointed out that since the persons with disabilities have to undergo a productivity assessment, their wages may be lower than the statutory minimum wage (SMW). Perhaps allow me to provide Members with some general figures. Honestly speaking, at present, the statistics on persons with disabilities are pretty insufficient, and the most credible statistics came from a pretty extensive survey conducted by the Census and Statistics Department (C&SD) in around 2007 and 2008. Although the data was published five to six years ago, it is the only statistics that are available.

As pointed out in C&SD's Special Topics Report No. 48, persons with disabilities accounted for about 6.2% to 6.5% of Hong Kong's population, that was around 440 000 people. What was meant by "around"? This was because even the C&SD admitted that there was apparent deviation in the calculation of persons with intellectual disability, thus estimation had to be made in the end.

Since persons with disabilities accounted for 6% of Hong Kong's population, the number was indeed not small. Yet, only 13.2% was economically active — which constituted more than 60% of the overall population. On employment, only 11.8% of the persons with disabilities were employed — meaning that only 50% of the persons with disabilities in the population were employed. Hence, only very few persons with disabilities who were economically active were employed. Based on this figure alone, we can say that persons with disabilities have difficulties in getting a job. Even if they can secure a job, their wages may also pose a serious problem.

The Special Topics Report also showed that the median monthly employment earnings of persons with disabilities was \$6,800, which deviated greatly from the \$10,100 median monthly employment earnings of the total employed population at that time.

After the introduction of the SMW, persons with disabilities are permitted by law to request for a productivity assessment. The reason given back then is very simple. After the introduction of a standardized SMW, persons with

disabilities or people who are less competitive may lose their jobs because employers would rather hire people with higher ability. Those with lower ability will naturally be put in an unfavourable position and may lose their jobs.

The purpose of allowing persons with disabilities to undergo productivity assessment is to protect them. If a person with disabilities takes the initiative to request the authorities to assess his ability, but the result of the assessment conducted by an assessor shows that he can only perform up to 80% of the productivity as required by the relevant post, then his minimum wage will be discounted by 20%, and that is 20% off \$28. It means that he will receive lower pay. If the result shows that the assessed degree of productivity is 70%, the minimum wage will be discounted by 30% to below \$20.

Honestly speaking, many persons with disabilities consider such an arrangement a humiliation and a serious disrespect. Why are persons with disabilities placed under the pressure of assessment and made to accept a discount in wages? Basically, this violates the spirit of minimum wage.

The spirit of minimum wage lies in the fact that whoever is willing to contribute his effort in the community should be able to bring home a reward that sustains his basic living regardless of his productivity, posts, job nature, gender and age. How come persons with disabilities cannot bring home a reward that can sustain their basic living though they have contributed their efforts? We can therefore see that productivity assessment does have some problems.

My amendment is actually a compromise. Given that the law has been passed and there is no choice, I think that the Government should provide a subsidy. If a person with disabilities is assessed to entitle to a wage discounted by 30% or 20%, it means that his hourly wage will fall below \$20. There is no way he can make ends meet. In that case, the Government should give him some incentives by providing a subsidy of \$8, which will then add up to the minimum wage of \$28. He would at least be on a par with other people and thus sustain a basic living, thereby encouraging them to work.

But will the Government suffer in so doing? Honestly speaking, a much higher price will have to be paid by the Government if persons with disabilities choose not to work but receive CSSA. Worse still, the price is not paid by the Government alone, but by the entire community. The Government is just an

agent. The question is, given that persons with disabilities are the disadvantaged ones under this system, and are forced to undergo assessments and receive wages lower than the SMW, is the community willing to give them some incentives? The provision of subsidy can actually address the concern of employers, who worry that they may suffer as a result of employing persons with disabilities whose productivity is relatively lower. However, if the Government can provide a subsidy, the situation will be different because there will be subsidy from public coffers even if the persons with disabilities' wages have to be discounted. According to my calculation, the Government is more likely to benefit than suffer. If more persons with disabilities are encouraged to go to work, they need not receive social security allowance on the one hand, and we can have a bigger workforce on the other. Once persons with disabilities restore their social status, there will be a chance of being employed. Hence, this is an all-win proposal in which persons with disabilities, employers and the community win. Is this not good?

Regarding the second part of my amendment, I considered back then that the law has a big loophole and might violate the constitution as the Minimum Wage Bill proposed to amend the Disability Discrimination Ordinance as well. It provides that if the assessment result of an employee with disabilities is better than the expectation of the employer and the latter subsequently refused to pay the relevant wage, he can dismiss that employee and this is not bound by the Disability Discrimination Ordinance. Is this not extremely ridiculous? The purpose of the Disability Discrimination Ordinance is to prevent persons with disabilities from being discriminated in employment. And yet, their dismissal apparently on the ground of disabilities is purposely excluded from the coverage of the Disability Discrimination Ordinance. If this is the case, the Government should actually abolish that Ordinance.

Therefore, if we do not amend the law at the earliest opportunity, I believe someone may bring a case to the Court sooner or later and the Government will then be in a big trouble for it has violated the constitution. In view of this, the two parts of my amendment are very clear. Firstly, we should make up for the shortfalls in wage for persons with disabilities so as to retain their dignity. The employers will not suffer as a result and I trust that members of the public will absolutely support this. Secondly, the relevant amendments should be removed such that dismissal will also be bound by the Disability Discrimination Ordinance.

Last of all, although persons with disabilities are basically in a state of under-employment, the Government has insisted not to implement a quota system for employing persons with disabilities. I therefore urge the Government to introduce some sort of indicators. Over the past few years, the SAR Government has claimed that its major task was to deal with problems relating to persons with disabilities. Nonetheless, I fail to see what has been done in this regard.

Deputy President, I hope that the Government will seriously help with the employment of persons with disabilities. I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, I thank Mr Frederick FUNG for proposing today a motion on minimum wage, which proposes to raise the minimum wage level to \$33 or above per hour and shorten the frequency of review to "once every year". These are issues of concern to Members. On top of these, I have added a proposal that "the Minimum Wage Commission (MWC) should include representatives nominated by labour groups".

Deputy President, when LEUNG Chun-ying was preparing for his electioneering last year, he played the card of public opinion on housing, healthcare and social security, and he appeared to care very much the living of the grassroots. He even acted more like a social worker than I do, though I have engaged in the sector for more than 30 years. The reason is simple. At that time, Henry TANG was ahead of him, so he could only resort to public opinion in order to "join in the competition". The manifesto of LEUNG Chun-ying back then was very "populist", in modern-day terms. And yet, in just a few months after assuming office as the Chief Executive, the fox's tail was revealed in at least two issues, namely housing and old age living allowance. He has fallen far short of the expectation of the grassroots. Another example is "setting the minimum wage level at \$33 per hour" under discussion today.

Members may recall that LEUNG Chun-ying had written many articles on politics when preparing for his electioneering and there was one on minimum wage. A few days after the statutory minimum wage (SMW) was introduced on 1 May 2011, he published an article saying that, (I quote) "The fundamental objective of the SMW is to address working poverty." He went on to say that,

"As the economy develops, people from different strata, including grass-roots workers, should be able to share a bit of the fruit of economic development" (End of quote). I remember that some social workers did have some expectations of what he said back then. Of course, I also hoped that he would "take radical actions".

Deputy President, the labour sector originally proposed to set the SMW at \$33 per hour, but in order to preserve the interest of the whole, we appreciated the employers' concern and reluctantly agreed to set the SMW level at \$28 per hour on the condition that a review would be conducted this year. Today, one year later, it has demonstrated that the implementation of the SMW has not created any trouble at all. While we witnessed slight improvements in the living of wage earners, the operation of employers has remained very difficult. A fatal blow to employers is the exorbitant rent which rises with geometric progression. For example, the Nam Kee Springroll Noodle shop in Causeway Bay has offered food at pretty low price and operated with great hardship for many years. It just charges \$21 for a bowl of noodle with two ingredients, and \$12 for a dish of green vegetables. And yet, in the face of the frantic increases in rental, which has increased two-fold from \$200,000 to \$600,000 per month, the branch shop at Percival Street will have to close down in March 2013. Being a representative of the Catering Functional Constituency, Mr Tommy CHEUNG should not camouflage the fact anymore and arbitrarily talk on the negative impact of minimum wage. If he is bold enough, he should rise against the "real estate hegemony".

The proposal of the MWC is very conservative, which raises the hourly wage from \$28 to \$33, an increase of just 7.1%. Although economists project that the average inflation rate for the year is about 4.5%, the increase in wage may lag behind the inflation rate when a relatively high proportion of expenditures of the grassroots are spent on housing, transportation and food. Members must not forget that when the minimum wage rate was set at \$28 per hour, it was seen as a compromise and considered pretty low.

Let us use another article written by LEUNG Chun-ying as an example. He has observed that while Hong Kong's economy has all along achieved sustainable growth, the income of grass-roots workers has dropped. As pointed out in an article published last week written by Mr CHAN Kai-ming, a seasoned social policy researcher, "In the past few years, increase in the overall income of

grass-roots workers has lagged behind economic developments and there was no sign of improvement. Based on the constant 2010 prices, between 2001 and 2010, the average annual Gross Domestic Product of the working population had increased from \$369,000 to \$512,000 per person, representing an increase of 38.8%. However, growth in the average reward of employees was only 12.2% for the same period", and the magnitude of increase is less than 30%.

The business sector and the Government always stress the need to minimize job loss, especially low-paid jobs, and to maintain Hong Kong's competitiveness and economic development. I certainly agree with this. When formulating policies, the Government must look ahead and behind. After all, all social policies aim to improve people's livelihood. The excessively low wage of grass-roots employees actually reflects the uneven distribution of the economic fruits, and the allocation mechanism has lost its balance. Yet, such an uneven phenomenon has existed for too long. Noting from the experience gained in implementing the SMW last year, no obvious waves of retrenchments and business closures have been caused. Even if Hong Kong is only ranked the second, third or even fourth most competitive city in the following year, I would consider it "a blessing of Hong Kong" if wage earners can earn a minimum wage of \$33 or even \$35 per hour.

If Chief Executive LEUNG Chun-ying genuinely believes "the fundamental objective of minimum wage is to address working poverty", he should not only commence the study on poverty line in the Commission on Poverty, but should also put in more efforts to raise the minimum wage level and relate the minimum wage level to economic performance, which means that the minimum wage adjustment mechanism should be improved, including conducting the review "once every year".

Deputy President, I wish to point out that discussions on the enactment of legislation on minimum wage in recent years showed that, the labour policy of Hong Kong is legislation-oriented which has failed to cope with the rapid and complicated social development. Hong Kong must follow overseas examples and deal with problems relating to labour relations and labour interests through collective bargaining.

Deputy President, according to the principle of tripartite negotiation laid down by the International Labour Organization, the governments should negotiate

with representative organizations of employers and workers, so as to promote and comply with international labour standard. It is stipulated unequivocally in the International Labour Convention 131 (that is, the Minimum Wage Fixing Convention 1970) that governments must ensure that representative organizations of employers and workers have direct participation in fixing minimum wage. The Hong Kong Social Workers' General Union and the Labour Party suggest that representative labour organizations should nominate members to represent the interests of labour, for appointment by the Chief Executive.

In fact, the forming of committees through nomination by the relevant organizations and appointment by the Chief Executive or Directors of Bureaux was not unprecedented. The Occupational Deafness Medical Committee established under the Occupational Deafness (Compensation) Ordinance is a statutory body. It is nominated by the Hospital Authority, Department of Health, Hong Kong Academy of Medicine of the Hong Kong College of Otorhinolaryngologists, Hong Kong College of Community Medicine and Hong Kong Society of Audiology, and subsequently appointed by the Secretary for Labour and Welfare. On the other hand, membership of the Construction Industry Council, which is established under the Construction Industry Council Ordinance (Cap. 587), is also nominated by the relevant business associations and trade unions, and subsequently appointed by the Secretary for Development.

The labour sector has all along considered that the best way to get workers' views represented is to invite representatives chosen by the trade unions to join the MWC. This is because only recommendations made by representatives nominated by the labour organizations are recognized and represented. Under the established nomination mechanism and given that the MWC has come into operation, recommendations made by the MWC would certainly receive better recognition if the labour, business and academic sectors and civil service groups can each nominate three members to join as members.

I so submit.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I thank Mr Frederick FUNG for proposing this motion on statutory minimum wage (SMW), and Ms Cyd HO, Dr Fernando CHEUNG and Mr CHEUNG Kwok-che for proposing the amendments.

Today is 31 October and the SMW has been implemented in Hong Kong for exactly one and a half years. Due to the continuous robust economic growth in Hong Kong, the negative impact of the SMW on the labour market and business sentiment has been largely moderated. All in all, the implementation of the minimum wage is generally smooth at the preliminary stage. In fact, the income of low-paid employees has substantially improved. The latest data (for the period from June to August 2012) showed that the average employment earnings of full-time low-income employees at the lowest decile registered a year-on-year hike of 6.3%, or an increase of 4.6% net of inflation, which was much higher than the overall average increase of 3.4%, and the actual increase in earnings is only 0.3% net of inflation.

The legislation on minimum wage is an outcome of the concerted efforts of people from all walks of life, including the Legislative Council. From mooting the idea, promotion, building of community consensus, the enactment of legislation to final implementation, the relevant law has involved years of thorough discussion and detailed deliberation in the community. The outcome is no easy. The purpose of introducing the SMW is to provide grass-roots workers with the most desired wage protection. In the course of deliberation and legislation, the entire community agreed that it is necessary to strike a sensible balance between wage protection and sustaining Hong Kong's competitiveness and economic growth, with a view to achieving a win-win situation. I would like to take this opportunity to sincerely thank the labour sector, industrial and business sectors, employers, academic sector, various political parties and Members of the Legislative Council and people from all walks of life for their support and understanding. They have enabled the smooth implementation of the SMW, which has written an important page in the history of labour and social development in Hong Kong.

Regarding the motion proposed by Mr Frederick FUNG and the amendments proposed by the other three Members, I would like to make a brief description here.

Firstly, while the SMW aims to prevent wages from being excessively low and avoid bringing serious adverse impacts on the employment opportunities of grass-roots employees, it should also refrain from unduly jeopardizing the local labour market's flexibility, economic freedom and competitiveness, in order not to end up having more loss than gain. As the community is divided on the

minimum wage level, coupled with the fact that the minimum wage may have serious adverse impacts on the community, economy and employment opportunities, we must adopt an evidence-based approach to review the minimum wage level.

Therefore, before the Minimum Wage Commission (MWC), which was established under the Minimum Wage Ordinance (the Ordinance), makes recommendation on the wage level, it should make detailed analysis of various relevant data, including data on wage distribution and other findings. It will then conduct impact assessment and widespread consultation so as to thoroughly consider the views of various stakeholders. Chairman of the MWC and unofficial members from the labour, business and academic sectors were all appointed in their personal capacity. They do not represent any organizations, nor are they nominated by individual organization. This arrangement can ensure that the MWC will make analysis and conduct discussions in an independent, objective, rational and comprehensive manner, and give impartial recommendations and advices.

On the whole, the community accepts that in the course of reviewing the SMW rate, the evidence-based approach will be consistently adopted so as to remain objective by all means. Also, it should be free from any political influence or intervention. The Ordinance provides that the Legislative Council may approve or revoke, but not amend, the proposed SMW rate, and the purpose of which is precisely to uphold this important and fundamental principle.

Regarding the review cycle of the SMW rate, there are divergent views in the community. While some propose to review "once a year", the so-called annual review, some propose to withhold the review given that the minimum wage has only been implemented in Hong Kong for a short period of time. We opine that the requirement to review the SMW rate at least once every two years — I repeat, at least review once — as provided in the Ordinance, does not only orderly govern the review cycle and safeguard the interests of labour, it can also provide sufficient flexibility for a review to be conducted in less than two years when such a need arises. This is a practical arrangement which can effectively balance the interests of employers and employees, and the entire community.

Regarding employees with disabilities, the minimum wage legislation aims to set a wage floor to prevent employers from giving excessively low wages.

On the other hand, safeguarding the wage level of low-income employees can help reduce the need of deploying social resources to provide welfare for them. The proposal for the Government to provide wage subsidies does not comply with the policy objective of introducing the minimum wage. The purpose of establishing a productivity assessment mechanism under the Ordinance for employees with disabilities to opt is to minimize the possible effect of the minimum wage on persons with disabilities. Besides, the exemption provisions provided in the Disability Discrimination Ordinance are, I must stress, only limited to situation where dismissal is on account of the outcome of the productivity assessment but not others.

Deputy President, I so submit. After listening to Members' views, I will make a more detailed response. Thank you.

MR POON SIU-PING (in Cantonese): Deputy President, as reported by the media, the Minimum Wage Commission (MWC) will submit a report to the Chief Executive this week and propose to raise the minimum wage level to \$30 per hour. Noting the secrecy of MWC's report, I can only discuss the proposed revision of the minimum wage rate based on the media reports. If the MWC proposes to raise the minimum wage level to \$30 and this is accepted by the Chief Executive, the labour sector and people who are concerned about the living of the grassroots will be disappointed.

Hong Kong formally implemented the minimum wage in May 2011 and the rate was set at \$28 per hour, which has fallen behind the expectation of the labour sector. Therefore, today's motion which proposes to raise the minimum wage level to \$33 or above per hour has merely reiterated the request expressed by the labour sector last year. It has yet to take into account the inflation of some 5% recorded in Hong Kong since the implementation of the minimum wage. We can therefore see that the request to raise the minimum wage level to \$33 or above per hour is reasonable and justified.

The Chief Executive will decide on the minimum wage level according to the recommendation made by the MWC, and it appears that the Government is neutral with regard to the minimum wage level. However, the MWC is comprised of public officers from the Government, employees, employers and academics, each constitutes one fourth of its membership. Under such a

membership distribution, the Government will inevitably have a pivotal role to play in the MWC. As stated in the media report, the MWC has decided on the minimum wage level. But I must point out that the Government also has a part to play in the decision concerning the minimum wage level, so it should not muddle through on false pretences by saying that it respects the decision of the MWC.

During the oral question session of last week's Council meeting, a number of Members requested the Secretary to shorten the frequency of review from "once every two years" to "once every year". The Secretary nonetheless gave an ambiguous reply, saying that a review by the Government could be conducted in less than two years if such a need was supported by data. I then asked the Secretary how to decide if such a need has arisen. In fact, the pay trend survey of the Civil Service was also conducted once every year. Why would the Civil Service pay be reviewed once every year whereas the wages of the general grass-roots employees have to be reviewed once every two years? The Secretary can hardly explain why such a double standard has been adopted in our policies.

Deputy President, last of all, I must mention the amendment to empower the Legislative Council to amend the notice on the minimum wage level and its effective date. Undoubtedly, this would enable the Legislative Council to have greater discretion on the minimum wage. And yet, it is anticipated that the determination of the minimum wage level would arouse greater and more disputes in the community, which thus runs counter to the intent of establishing the MWC. Although the recommendation made by the MWC may not live up to our expectation, on balance, I do not agree with this amendment.

I so submit.

DR CHIANG LAI-WAN (in Cantonese): Deputy President, many people consider that the biggest victim of the introduction of the minimum wage is the business sector. While the business sector — especially small and medium enterprises — will be affected to a certain extent, the genuine victim is actually the tens of thousands of people who are earning medium to low income.

Why do I say so? We must admit that there are pros and cons in the implementation of the minimum wage, as this would undeniably induce a knock-on effect on inflation, thereby indirectly affecting the low and middle income groups whose salary is slightly higher than the minimum wage level. Although the implementation of the minimum wage does not affect them, the resulting change in the costs of living, like going to the Chinese restaurants, management fee, and so on, will nonetheless affect them. For example, a wage earner originally earning some \$10,000 now only has \$8,000-odd at his disposal. Borrowing their words, "money has depreciated for no reason". People who were originally not at the lowest strata or receiving the lowest pay have now become the lowest-income group. Recently, there is a popular saying: "I would rather work as a security guard given that I have to work so hard just to earn a thousand or several hundred dollars more." We can therefore see that the minimum wage might have brought some adverse effects. Therefore, the Government must also care about people earning low-to-medium income, whereas the employers should share the fruits with their employees when there is a profit.

I agree that the minimum wage will bring some obvious benefits, such as attracting many housewives to work as part-time workers, thereby enhancing the employment of women. Thus, we reckon that the implementation of the minimum wage has improved the living of grass-roots workers and helped relieve family poverty.

Another apparent advantage of the minimum wage is a reduction in the number of applications for CSSA. According to the statistics of the Social Welfare Department, as at the end of last month, the number of CSSA cases is 271 922, which is 10 429 less than last year when minimum wage has yet to come into operation. What is more, applications for other employment-related benefits, such as low-income CSSA and unemployment CSSA, have also dropped by 22% and 14.8% respectively. I believe this is because the income from the minimum wage is higher than that of the CSSA benefits, thus more people are willing to work. From this, we can see that Hong Kong people are willing to work if a chance is available and earn their own living.

Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has urged the Government time and again to develop diversification of industries so as to create more job opportunities. Furthermore, through the government-led secondary distribution and a set of comprehensive

plans in respect of social welfare and transport subsidy to help low-income earners, these measures offer the best solution to combat the disparity between the rich and the poor.

Deputy President, after speaking on the basic implementation of the minimum wage, I would like to talk about the DAB's stance on the motion and its amendments. The DAB will not support Mr Frederick FUNG's original and various amendments because the Minimum Wage Commission (MWC) has already reached a consensus on the statutory minimum wage rate earlier. We consider this an agreement of the business and labour sectors, and thus the recommendations of the MWC should be respected.

I so submit, thank you.

MR KWOK WAI-KEUNG (in Cantonese): Deputy President, although the motion on "Raising the minimum wage level to \$33 or above per hour" proposed by Mr Frederick FUNG today is not legally binding and that under the existing mechanism, revision of the minimum wage level must be negotiated by the Minimum Wage Commission (MWC) and approved by the Chief Executive in the end, which is an established mechanism respected by Members, the point is that the proposed minimum hourly rate of \$33 has been pursued by the community and the trade unions for many years. The Hong Kong Federation of the Trade Unions (FTU) had requested the minimum wage rate to be set at \$33 per hour even before the introduction of the minimum wage. However, while the minimum wage has been implemented for two years and a review has also been conducted, the relevant wage level has yet to reach \$33 per hour. Wage earners are thus disappointed and infuriated. I believe this is precisely the reason why Mr Frederick FUNG proposed a motion today to arouse public concern of the aspirations of wage earners.

The FTU supported Mr Frederick FUNG's motion, and will fight vigorously for a review of the minimum wage "once every year", with a view to expeditiously raising it to a reasonable level.

Deputy President, is the minimum wage of \$33 per hour reasonable? Honestly speaking, it is not reasonable because the relevant data used today, which is two years later, have lagged behind. The proposed minimum wage

level of \$33 per hour is actually insufficient for employees to support their families. This is particular so when rents, prices of food and inflation rate are rising. A wage earner may have to pay \$33 or even more for his lunch. So, how can they support their families with an hourly minimum wage of \$33? Many kaifongs telephoned me, in the past, kaifongs usually called me to express their aspirations for public rental housing (PRH). As their living conditions were poor, they wanted desperately for allocation of a PRH flat, probably because they are living in sub-divided units and cubicle apartments. Recently, they call me for a different issue. Most of them said, "Mr KWOK, I cannot afford the high rent anymore. Can you please help me with the application for a PRH flat? I want to be allocated a PRH flat as soon as possible and pay a lower rent. Or else, I don't even have money for food." From this, we can see that rent and other costs of living can have a profound and direct effect on wage earners.

I recall that the FTU proposed the minimum wage rate at \$33 per hour in 2008, with a view to setting the minimum wage at no less than 60% of the average monthly salary of the workforce. This wage level was proposed based on the data obtained in 2007 when the average wage in Hong Kong was \$11,325. We therefore considered that if a wage earner worked eight hours per day and six days per week, an hourly rate of \$33 was basically reasonable. And yet, the data was obtained in 2007. If we use the latest data published in late 2011 as the basis, the Quarterly Report of Wage and Payroll Statistics published by the Census and Statistics Department showed that the average monthly wage in Hong Kong has already increased to \$12,977. If we use the standard of 60% of monthly salary as the basis for calculation, it would be reasonable for the minimum wage rate to be set at \$37. There is a difference of 20% between our proposal rate of \$37 and the MWC's proposed rate of \$30. How can a low-income household make ends meet if the wage is reduced by 20%? May I ask the Honourable Members, Deputy President and Secretary if we can get a 20% discount off the rent or food bill? This is impossible. Then, how come the grassroots have to receive wages at a 20% discount?

Deputy President, the longstanding suppression of the minimum wage is mainly attributable to the strong response from the business sector. Many people from the business sector highlighted that the implementation of the minimum wage would undermine the community's competitive power, as well as induce a knock-out effect and stimulate inflation. And yet, they have not mentioned that the greatest operational difficulty is caused by the rising rental.

According to the data released by the Rating and Valuation Department, the average monthly rent of premises for retail purpose in Kowloon was \$1,200 per sq m in late 2008, but it has risen to \$1,500 in August 2012, representing an increase of 25%. However, if we raise the minimum hourly wage rate from \$28 to \$33, the increase is not so great as rent. We can therefore see that the pressure on operation is not caused by labour cost but rent. Given that the business sector has stood firm against the labour sector and employees on the minimum wage issue, why did it not stand firm against the real estate developers? Why did they put the blame of business failure or closures on employees alone?

Deputy President, it is reasonable and justified to raise the minimum wage level to \$33 or above per hour because employees can be duly paid, they can thus lead a dignified life and work in contentment, which are conducive to the smooth development of society. However, the local business sector has all along adopted an outdated capitalist mindset to fully oppress and exploit wage earners, and when they can no longer exploit workers, a fresh batch of employees will be recruited. The same practice applies to minimum wage and standard working hours. I hope that employers can change their mindset and improve the interplay of the labour relations, thereby addressing the deep-rooted social conflicts in Hong Kong.

I so submit, Deputy President, thank you.

DR LAM TAI-FAI (in Cantonese): Deputy President, it is reported that the Minimum Wage Commission (MWC) has proposed to raise the minimum wage level to \$30 per hour. However, I am aware that various bodies and individuals have different views on this amount. Deputy President, as the revision of the minimum wage may affect society as a whole, the Government must handle it with great caution. I also hope that there will be rational discussions among people from all walks of life.

Deputy President, while I fully appreciate the hardship faced by low-income people, I consider that the proposal of Mr Frederick FUNG in his original motion to raise the existing minimum wage rate by 18% from \$28 to \$33 per hour is totally unrealistic and disregards the overall interests of the community. It would be very difficult for employers and employees to forge a consensus on such an increase. Deputy President, judging from the inflation

rates of the past few years, namely 2.4% in 2010, 5.3% in 2011 and a projected 3.7% this year, the inflation rate falls far below the rate of increase proposed by Mr Frederick FUNG, I therefore fail to see his justification in proposing the increase to \$33. Of course, Mr Frederick FUNG is experienced in operating social enterprises, but I am pretty sure that he may not have a good grasp of the operational difficulties encountered by small and medium enterprises (SMEs) at present.

Actually, there are numerous hidden worries and uncertainties in our economy. While economic recovery of the United States has slackened, the spreading of the European debt crisis has made many countries slide into an economic recession. The growth of the Mainland's economy has also slackened. Under such an external environment, Hong Kong's external trade suffers first. Let me provide Members with some figures. Exports of goods have performed very badly in the first eight months and Hong Kong's export volume has dropped by 18.3% when compared with the corresponding period last year. Coupled with increases in rental and prices of raw materials, SMEs engaging in either servicing or manufacturing industries are therefore subject to great hardship and higher risks.

Deputy President, the Government has recently introduced some new measures to combat speculators and suppress property prices in these days. I am very concerned that these measures may pose additional difficulties for SMEs intending to acquire bank financing with their "bricks"¹. All in all, I hope that Mr Frederick FUNG will not only concern about social enterprises, but the actual operation of SMEs as well. He should not apply the same mindset of operating social enterprises to apprehend the difficulties encountered by SMEs.

Deputy President, I must stress that the original intent of the minimum wage is to ensure that low-income people can get reasonable income and enjoy the most fundamental protection of living, thereby leading a dignified life. And yet, the minimum wage should be revised based on the actual economic conditions and that both upward and downward adjustment can be made. Year-on-year increase or hike in wages does not seem necessary. Deputy President, this Council has come across different labour issues recently. Apart from the minimum wage level under discussion today, there are also standard

¹ "Bricks" means properties.

working hours and paid paternity leave. All these have posed immense pressure on employers of SMEs, who fear that the ever-increasing costs will make operation difficult and lead to business closure.

Deputy President, I guess it is not difficult for Members to see that security guards patrolling around on your way home are not as old as before. The logic is very simple. For the same amount of salary, employers will naturally hire younger employees who are young and fit. As a result, it has become more difficult or even impossible for relatively senior wage earners to get a job, thereby indirectly driving up the unemployment rate of the elderly. Unfortunately, given the financial eligibility limits, these elderly people may not be eligible to apply for the old age living allowance and can only exhaust all their reserves.

Furthermore, the implementation of minimum wage has apparently induced a knock-on effect. If employees at the lower level request for a wage increase, will employees at the middle level not follow suit? Raising the minimum wage level will definitely push up the overall wage level of a company. Members may notice that the percentage of employees earning an hourly wage rate of \$32 to \$35 has increased significantly after the introduction of the minimum wage level at \$28 per hour (in the second quarter of 2011). According to the government data published in the second quarter of 2011, 20.7% of employees earned an hourly wage rate of \$34, which is 17.5% higher than the previous year. Employees earning \$35 per hour even reached as high as 22.9%, which is much higher than the 19.1% recorded in the previous year. From this, I can deduct that the knock-on effect has actually taken place.

Deputy President, I think that if the Government adopts Mr Frederick FUNG's views and raise the minimum wage to \$33 per hour, the knock-on effect may gradually take stronger effect or further push the hourly rate to \$35 or \$36, or even higher. The burden of SMEs will then become heavier and they will certainly find themselves in misery. Therefore, when dealing with the minimum wage level, we should not look at data alone, but should also make comprehensive consideration and analysis.

Deputy President, as for other amendments, I neither support nor agree with Ms Cyd HO's proposal to let "the Legislature has the power to amend the notice on a prescribed minimum hourly wage rate and its effective date". I do not reckon that an amount can be arbitrarily set after a discussion by the

Legislative Council. Rather, I opine that the most appropriate and professional approach is to entrust the MWC to conduct focused and thorough reviews, and gather the relevant views. Of course, the MWC must take into account the overall interests of the community by minimizing the loss of low- paid jobs while sustaining Hong Kong's economic growth and competitiveness. Balance and consensus must be established. Furthermore, the MWC should convince employers and employees on a certain minimum wage level with scientific data and not to force its way through. The Secretary should get what I mean and should not force its way through.

Deputy President, employers and employees are actually inextricably interdependent, and they should not be antagonistic. Employees are the greatest asset of employers. However, if the minimum wage system is abused in such a way that the benefits always go to one party, employers have no longer afford the loss and have to close down or lay off staff. In the end, both parties suffer to no avail. I therefore hope that Members will handle the matter with caution (*The buzzer sounded*) Deputy President, I so submit.

MR TONY TSE (in Cantonese): Deputy President, it is now exactly one year and a half since the implementation of the statutory minimum wage (SMW) on 1 May 2011. I am very surprised to learn that Mr Frederick FUNG has proposed a motion today to raise the minimum wage level to at least \$33 per hour because according to the law, proposals to revise the SMW level should be submitted to the Chief Executive and the Executive Council by the Minimum Wage Commission (MWC). Given that the MWC is an independent statutory body established under the Minimum Wage Ordinance to make recommendations to the Chief Executive in Council on the minimum wage level once every two years, we must respect the relevant mechanism and should not ignore it.

After studying the minutes of proceeding of the Council meeting on 14 July 2010, I learnt that during the resumption of the Second Reading debate on the Minimum Wage Bill, Mr Frederick FUNG said that "the MWC plays a very important role in the setting of a minimum wage rate. Therefore, its composition must have a broad representation, and its operation must be open and transparent". He also said that "The Legislative Council has a public mandate and it should have the power to support, reject or revise some decisions and proposals made by the executive authorities under reasonable and unreasonable circumstances. In doing so, some irrational cases can even be avoided. For

instance, if the Chief Executive ignores the recommendation of the Minimum Wage Commission and decides to adjust the minimum wage rate downwards".

Deputy President, I trust that Mr FUNG agreed and supported the establishment of the MWC back then and accepted the relevant mechanism. Nonetheless, the motion proposed by him today has completely ignored the mechanism of submission of a report by the MWC. Instead, he proposed to revise the existing SMW level and urged to raise the minimum wage level to no less than \$33 per hour. This is not only a neglect of the recommendation made by the MWC, but also a total disregard of the existing statutes.

I opine that as a mechanism has been put in place, we should respect it entirely unless there is serious problem. And, in particular, the mechanism has only been established for a very short period of time. In fact, I believe when the MWC considered the new SMW rate, it should have made reference to a basket of indicators which cover four major areas, namely the general economic conditions, labour market conditions, competitiveness and social inclusion. Furthermore, it should also made reference to the experience and considerations of other places in reviewing the minimum wage rates.

Deputy President, I think that the minimum wage rate must be determined with great caution and has to take various factors into consideration so as to strike a balance as far as possible. Therefore, apart from the actual amount, it is also vital to put in place an effective mechanism for wage determination and review, so I hope that Members will respect the existing objective mechanism. I certainly agree that there are deficiencies in the existing mechanism, but we can explore what improvements can be made. We should not disrespect the entire mechanism and ignore the recommendations made by the MWC.

Deputy President, I support the introduction of the minimum wage to help people in need and forestall excessively low wages, while minimizing the loss of low-paid job by all means. Yet, if Members ignore the relevant mechanism and put forward their own proposals on the wage level without strong justifications, will this bring genuine benefits to the entire Hong Kong community and members of the public? Can this help people with genuine need in the end? I think this warrants our serious consideration.

Deputy President, I so submit.

DR KWOK KA-KI (in Cantonese): Deputy President, the enactment of the minimum wage legislation is actually a good measure made under the joint efforts of the Legislative Council and members of the public. Since the implementation of the minimum wage in May 2011, I notice that the feedbacks are pretty positive. Many people from the social welfare and even labour sectors think that their preliminary estimation turns out to be correct.

During the initial discussion on legislating for minimum wage, many people expressed the fear that minimum wage would definitely push up the unemployment rate. I still remember that many employers, who were in this Chamber back then, claimed that the introduction of minimum wage would send 200 000 or even 400 000 people into unemployment. These people are still sitting in this Chamber. In fact, since October 2011, unemployment rate has dropped from 3.4% recorded before the implementation of the minimum wage to 3.2% recorded thereafter. The total employment population has increased from 3 634 800 to 3 648 600, representing an increase of 13 800 people, whereas the workforce has also increased from 3 746 500 to 3 767 700, representing an increase of 21 200 people. It is therefore not accurate to claim that the rate of unemployment will be pushed up. Neither is there any wave of business closure.

Actually, the enactment of the minimum wage legislation has helped many grass-roots families. Many people are now working as security guards, many members of the catering trade — represented by Tommy CHEUNG, who is not present now — wash dishes or work as waiters/waitress also benefit from the minimum wage. They enjoy a salary increase ranging from 10% to 25%. In October 2012, the Hong Kong Council of Social Service (HKCSS) published some latest statistics on the size of population living in poverty, which I think the Secretary should be aware of. The overall population living in poverty has declined to 17.1%, which is a significant drop. When we analyse the data, we cannot deny that minimum wage is the major reason which directly reduces the size of the population living in poverty — especially the working poor — in Hong Kong.

Many people asked how the minimum wage should be determined to bring benefits to people living in the lowest stratum of society. There are possible ways of doing so. As provided in Article 3 of the International Labour Convention No. 131, when a country determines the minimum wage level, it will

not only consider the economic needs and level of development, but will also take into account the needs of the employees and their families. At present, there are around 200 000 working-poor households in Hong Kong, of which 65% (that is about 130 000 people) have to take care of at least one child or elderly person. In other words, more than 30 000 people have to take care of the elderly people and over 100 000 people have to take care of children. Therefore, with regard to households in the lowest stratum, the implementation of the minimum wage does not only help them, but has also directly helped those elderly people and children living.

In this Council, there have been numerous discussions on how to respect the elderly people and take care of the children's benefits. And yet, many people and even Members from the business sector may not know that many grass-roots households can only afford to pay \$50 or \$60 for meals each day. Many local studies pointed out that the nutritional level of children living in these households is pretty worrying, which might directly affect their growth and development. The Government may say that the establishment of food banks, for example, is one way to help them. And yet, distant water cannot put out a nearby fire. We consider it most important to establish a dignified and reasonable working condition for these households by providing reasonable wages.

After the minimum wage legislation has come into effect for a certain period of time, many people asked if it would have serious impact on small and medium enterprises (SMEs). Many colleagues have already spoken on this issue earlier, but I do hope that the business sector will make some fair comments. Nowadays, what severely undermines the business environment is the ever-increasing rent. Be they offices or shops in Hong Kong, the rent is one of the highest in the world. This has directly affected our SMEs and even large-scale enterprises. Mr Michael TIEN and I had once discussed on this in this Council. He said that the most influential factor is rent. I think that we should rightly focus on the problem and prevent the rent of shops and offices from spiralling like an unbridled wild horse, so as to avoid the present situation where the low-income grass-roots people are deprived of an opportunity to extricate from poverty.

In fact, over the past decade, the disparity between the rich and the poor in Hong Kong has been widening. The ratio has increased from 3.1 times in a few years ago to 3.5 times at present, and the gap in household income between the

wealthiest and lowest-paid families is increasing. This is an important reason directly causing the numerous social conflicts, misunderstanding among different strata of society and a lack of social harmony in Hong Kong. If we still do not make appropriate revision to the minimum wage, there is no way we can improve the situation.

It is pivotal for minimum wage increases to outstrip inflation. As Members may be aware, when the minimum wage level was initially set, it was based on the Consumer Price Index of the second quarter of 2009. This year, unless the hourly wage rate is raised to \$32.8, otherwise there is no way we can combat inflation. We think that it is now time (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Dr KWOK, your speaking time is up.

DR KWOK KA-KI (in Cantonese): to raise the minimum wage rate to \$33. Thank you.

MR ALBERT HO (in Cantonese): Deputy President, first of all, I thank Mr Frederick FUNG for proposing this motion debate today. Looking back at the implementation of the minimum wage over the past year or so, we can see that income of the grassroots has increased. As the Secretary has said, the entire policy has operated smoothly. Data showed that the rate of unemployment has dropped, so has the number of applications for CSSA. And, the overall economy continues to grow with a positive outlook. Therefore, after the implementation of the minimum wage, there was no sign of the adverse effects that people from business sector have worried, which include waves of closure of small and medium enterprises (SMEs) and a decline in competitiveness.

As Members may be aware, New Zealand was the first country to enact legislation on minimum wage early in 1890. The United Kingdom, the United States and Australia also have decades and even a century of history in such legislation, and we can see that all of them have prosperous and progressive economic development. It is evident that sound labour legislation and social security system is an essential social investment to the sustainable development of society. We must ensure that people in different strata of society, including

employers and employees, are able to receive reasonable rewards and share the fruits of economic development. Only in so doing can our society enjoy permanent stability and maintain long-term competitiveness. With this principle in mind, we support the minimum wage system and policy.

Regarding today's motion debate, we think that the two proposals made by Mr Frederick FUNG should be supported. The "once every year" review is in line with international practice and even the salary increment of local civil servants is reviewed every year. Then why would the minimum wage level of workers be reviewed "once every two years"? This is unreasonable.

The \$33 hourly wage rate, just as many colleagues from the labour sector have said, was proposed a couple of years ago. However, it was not accepted back then. The first minimum wage rate suggested by the Minimum Wage Commission (MWC) at that time was \$28 per hour, and it was about one and a half year ago. The Democratic Party, on the other hand, proposed \$30, which was not high judging from the base. The current Consumer Price Index is very high. Assuming that a person works 10 hours a day and the hourly wage rate is \$30, he can earn \$300 a day. If the costs of meals and transportation costs incurred in commuting from remote areas to the workplace are further deducted, the person may only take home around \$200 a day. Therefore, it is absolutely not too much to raise the hourly wage rate to \$33, which satisfies our basic needs. It is widely known that the median income of 2011 is \$12,800. If we calculate again using this median income, I find it absolutely reasonable for the hourly wage rate to be set at \$33, which is still considered by the trade unions as too low. If the hourly wage rate is set at \$33, 518 000 low-paid employees will benefit. This is a good deed to the community as a whole because the society's atmosphere will be improved. Thus, the Democratic Party supports Mr Frederick FUNG's motion.

Regarding Ms Cyd HO's amendment to amend the Minimum Wage Ordinance (the Ordinance), it is absolutely correct to restore the Legislature's due power of scrutiny. Just now I heard some newcomers to this Council asked, given that a mechanism has been put in place and it has not been implemented for long, why is there a dispute on the revision of the mechanism? In fact, serious disputes had likewise arisen when the relevant bill was debated and scrutinized. Since the Legislative Council is empowered to scrutinize all tabled subsidiary legislation, which is an established practice, thus this Ordinance has, in my opinion, very uncommonly deprived the Legislative Council of its due power of

scrutiny. While the Government claimed that the MWC found its basis on data, Members should see for themselves what these data represent. Completely different conclusions can be derived from the same data, depending on whether the data are given to Mr Tommy CHEUNG or Mr LEE Cheuk-yan, and there is no formula or yardstick for calculation. Hence, the data can only be used for reference. Just as Ms Cyd HO has said, this is, after all, a political judgment. If this is a political judgment, then why was the Legislature, which has relatively more elected seats, not asked to take up the responsibility, but has assigned the appointed MWC and the Chief Executive who is elected by only 1 200 people to do so? I therefore consider it necessary for the Legislative Council to regain such power.

I also very much agree with Dr Fernando CHEUNG's proposal that the Government should provide wage subsidies to persons with disabilities whose productivity has been assessed to be relatively low. This approach is, in my opinion, good because it is a labour rather than welfare policy. Provisions which might have been earmarked for CSSA payments can be used to support the persons with disabilities to work, thereby enabling them to crave dignity and enjoyment in work and lead a better life in a working environment. This is indeed a better alternative. I do not see any need for the Government to spend large sums of money on this. Even if this is necessary, the money is worth it. Furthermore, we should encourage the business sector to employ more persons with disabilities so as to get them to work. *(The buzzer sounded)* We also support Mr CHEUNG Kwok-che's amendment

DEPUTY PRESIDENT (in Cantonese): Mr HO, your speaking time is up.

MR WONG KWOK-HING (in Cantonese): Deputy President, I thank Mr Frederick FUNG for proposing this motion. As my colleagues have pointed out, we support Mr FUNG's motion.

After implementing the minimum wage for more than a year, we can see that the effects are positive. There were no signs of the concerns raised by members of the trade, who are represented by Mr Tommy CHEUNG, "20-dollar CHEUNG". At the initial stage of legislation, Mr Tommy CHEUNG had made

exaggerated predictions to raise an alarm, and he sounded as if the world was coming to an end.

I am so glad that Mr CHEUNG's prediction has not come true. Therefore, I am going to cite his words to illustrate the outcome today. Firstly, they initially claimed that the minimum wage would increase the operating costs of enterprises, so that once implemented, it would lead to closure of enterprises and retrenchment. Nonetheless, the fact tells us that in the past two years, unemployment rate stood between 3.2% and 3.4%, and a group of middle-aged people have been employed.

Secondly, they pointed out that the minimum wage would become maximum wage as employers would be reluctant to pay higher wages to hire employees. The fact is, however, these predictions have not come true. Nowadays, many employers are even willing to raise the wage level to attract job-seekers to take up elementary posts. This also shows that the alarmist talk back then does not hold water.

Thirdly, they also said that the implementation of the minimum wage would significantly drive up the wage expenses, thereby pushing up commodity prices. Members of the public who suffer would then attribute the high inflation to the minimum wage. Deputy President, while inflation has worsened in recent years, we notice that the major cause is not the minimum wage, but the skyrocketing rent, especially the rent of shops managed by The Link Management Limited. Furthermore, soaring prices of many imported food ingredients and raw materials, and the appreciation of renminbi were also set in motion. Therefore, the minimum wage has not caused any adverse effect on inflation at all.

Lastly, I want to talk about a good effect observed by us. During the two years after the minimum wage was implemented, the size of the poor population in Hong Kong has been reduced. According to a study of the Hong Kong Council of Social Service, in the latter half of 2011, the earnings of low-income people have significantly increased. For example, the household income of the lowest three decile groups has increased by 8.7%, 6.9% and 9.3% respectively. This is obviously attributable to the implementation of the minimum wage, which has improved their earnings and conditions. This favourable fact is indisputable.

Furthermore, Government data showed that as at late August 2012, the number of Comprehensive Social Security Assistance (CSSA) cases has been dropping. This is because the introduction of the minimum wage has brought large labour force into the labour market. Cases of unemployment CSSA has gradually dropped from 34 121 in September 2009 to 25 070 in August 2012, representing a plunge of more than one fourth within three years. From these, we can see that the implementation of the minimum wage has brought positive effect to society. I wonder if Mr CHEUNG would admit that these are indisputable hard core facts. From our observation, working poverty has been reducing following the implementation of the minimum wage.

Deputy President, it is pivotal to conduct a review "once every year". However, it has yet to be realized. It is learnt that the minimum wage level might be increased to \$30 per hour, but will only take effect in May next year. Even if the rate really comes into effect, the data on which it based was collected last year. In other words, from the collection of data to actual implementation in May next year, there is a time lag of three years. Honestly speaking, such extended delay does no good to both employers and employees. I therefore consider it more reasonable to conduct a review "once every year".

On the various amendments, we have the following analysis. We do not agree with Ms Cyd HO's amendment. We think that the Minimum Wage Commission (MWC), which comprises representatives of employees, employers, the Government and the academic sector, is the existing discussion platform which should be respected. Regarding Dr Fernando CHEUNG's amendment, we think that it complies with the stand of the Hong Kong Federation of Trade Unions to help the working poor. If persons with disabilities fail to get the minimum wage, we consider it pretty reasonable for the Government to provide subsidies to make up for the shortfall. As for Mr CHEUNG Kwok-che's amendment, as it steers towards boosting public recognition of the minimum wage level recommended by the MWC, we will support it as well.

Undoubtedly, I believe the present discussion is to enable us (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Mr WONG, your speaking time is up.

MR WONG KWOK-HING (in Cantonese): to settle from history the various disputes arising from the enactment of the minimum wage legislation at the preliminary stage.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, the motion proposed by Mr Frederick FUNG today requests to raise the minimum wage level to \$33 per hour. Yet, just now many colleagues criticized the relevant proposal and their criticisms mainly involve two aspects. Firstly, given that the Minimum Wage Commission (MWC) has been established to make recommendations to the Chief Executive, they wonder why the issue has to be discussed here. On this point, I would like to highlight that though the MWC, as far as I am aware, has been discussing with trade unions, the labour sector and the business sector on the minimum wage level, it has unfortunately never discussed with the Legislative Council, nor has it listened to Members' views.

Since the Legislative Council is an institution representing public opinions, why are we not allowed to express our views on the subject? What is more, the Chief Executive has yet to decide on the minimum wage level. Why are we not allowed to express views as representatives of the people? Thus, with regard to this point, I hope that Members will respect the work of this Council and do not always think that we can fully rely on the MWC. In my opinion, our views should be heard, be it the MWC or the Chief Executive.

Secondly, they criticized that Mr Frederick FUNG's proposal to raise the minimum wage level to as high as \$33 would bring many small and medium enterprises into trouble, and in particular, it will fuel inflation and cause serious adverse impacts on our economy. First, I wish to ask if Members know how much a fast food shop charges for breakfast or lunch. A breakfast normally costs \$25, \$27 or even \$28. For lunch, it may cost up to \$33 or \$35. It is almost impossible to buy a lunch at \$30.

Therefore, the wage for working an hour is even not enough pay for a lunch box. Do Members think that this is a dignified job? Can you tell me what kind of world this is when one cannot afford to pay for a meal with one-hour pay? Many Members accuse the wage level for being too high. Dr LAM Tai-fai has gone so far as to say that raising the hourly wage rate to \$33 will surpass the rate of inflation. And yet, the inflation rate quoted by him earlier

was calculated on a yearly basis, whereas the proposed level, if endorsed, will only come into effect on 1 May next year. If the increase is only 7.1% in two years, it means that the average annual increase is only some 3%. How will it surpass the inflation rate? In fact, such an increase has failed to catch up with inflation. Thus, the proposed increase to \$33 per hour is not only mild, but even conservative, and can do nothing to improve the standard of living.

Do Members still remember the purpose of introducing a minimum wage? It is to address the problem of working poverty. Even LEUNG Chun-ying, who is supported by many Members, highlighted that "the fundamental objective of the statutory minimum wage is to address working poverty". This is of utmost importance. Why do they not attach importance to and consider this point, but has instead blamed wage increase for causing the current economic problems and inflation? Have Members ever thought that it is the high rent and high land price that have all along eroded the employers' profits and the workers' wages? Members nonetheless remain silent, not to mention reprimand this situation. Also, they have not considered introducing corresponding measures to suppress rent, property prices and land prices, but have instead suppressed the rise in wages time and again. This is tantamount to placing the cart before the horse.

LEUNG Chun-ying has also pointed out that, "The essence of poverty in Hong Kong is not only that we compare unfavourably with other people, but we become worse off year-on-year even when we compare with ourselves". This is so true. Even if we raise the minimum wage level to \$30 per hour as proposed by the MWC, it is worse off than last year. Although there is apparently an increase of \$2 in wage, it has failed to catch up with inflation because the actual wage has been reduced rather than increased. Therefore, I really hope that Members will think about this carefully. While a meal costing dozens of dollars may mean nothing for Members, it is beyond the affordability of many people. I therefore hope that Members will pay attention to this problem.

The review cycle is currently at least once every two years, and Secretary Matthew CHEUNG said that the frequency can be increased if such a need arises. But who will decide when the frequency has to be increased? Is there any criterion for such a decision? It seems that there are no criteria and is pretty arbitrary. In fact, even when the inflation rate stood high some time ago, the authorities have not increased the frequency of review but still stick to the standard of "once every two years". If we think carefully, the minimum wage of

\$28 per hour has been implemented for one year and a half and will reach a full two years next year, but the level has totally lagged behind. Our most important task is to resolve the time lag problem, it is therefore essential to conduct a review "once every year".

On the other hand, regarding persons with disabilities, when I discussed with Secretary Matthew CHEUNG on the relevant bill long time ago, I had suggested that the Government should provide subsidies if the wage level of the persons with disabilities fell below 50% of the minimum wage level. This would not only lower government expenditure, especially the expenditure on CSSA, but would also provide an opportunity for persons with disabilities to genuinely integrate into society and lead an independent life. This was indeed a win-win proposal. Why did the Government not consider it? The Government would not suffer any loss after all and might even gain by saving some provisions for CSSA. Why did the Government not consider it? I hope that the Secretary will seriously consider providing wage subsidies for persons with disabilities as this proposal is beneficial to both parties. This is very important.

Lastly, I hope that Members would support Mr Frederick FUNG's proposal to raise the hourly wage rate to \$33, otherwise grass-roots workers will not be able to improve their living. Deputy President, I so submit.

MR TOMMY CHEUNG (in Cantonese): Deputy President, Mr WONG Kwok-hing often leaves the Chamber after giving his speech. While he does not listen to my speech or visit my website, he keeps accusing me of saying this or that. Sometimes, I really find it hard to give him a clear explanation.

Deputy President, in the middle of this year, the catering industry conducted a survey on 36 catering groups, each of which operates at least eight restaurants. According to this survey, which covers more than 1 000 restaurants, if the minimum wage is to be raised to the level of \$33 per hour, the ripple effect is that the wage cost is expected to increase by an average of about 13%. If this increase is to be completely offset by profit, the overall profit of the catering industry will drop by 3.7%.

(THE PRESIDENT resumed the Chair)

In Hong Kong, the gross profit of the catering industry is already very low. According to the statistics of the Government in 2010, the catering industry only had a profit of 5.6%. If we deduct 3.7% from this profit rate, and coupled with depreciation (the Government has not taken depreciation into account) and an average tax rate of 4%, the annual profit of the catering industry will be -2.1%, which is actually a negative return or a severe loss. To put it simply, the catering industry will not be able to stand for the impacts of having the minimum wage level at \$33 per hour.

In fact, I am very disappointed that the Minimum Wage Commission has not drawn on the practice of the United Kingdom in introducing the minimum wage. When the minimum wage was first introduced in the United Kingdom, only 4.9% of workers were affected. This is a more conservative approach which ensure better stability. If the minimum wage level is increased from \$28 to \$30 per hour, it means an increase of over 7% in hourly wage for more than 320 000 employees in Hong Kong, that is, 11.7% of local employees. This ratio is similar to the 11.3% of employees affected when the minimum wage level of \$28 per hour was introduced in 2011. These two ratios are both very aggressive. As before, I expect that a serious ripple effect will be resulted.

The catering industry is particularly concerned that, even before taking into account the ripple effect, about 30% of catering employees will be affected. As the posts in the catering industry have different grades and levels and the wage levels of low-paid jobs tend to affect each other, under such a vertical and horizontal rippling effect, at least 50% of employees will get a pay rise. Subsequently, the wage cost will soar again, bringing along another wave of increases in various living expenses. In turn, our operating costs, insurance cost, management fee and other commodity prices will be driven up again.

President, when Hong Kong first introduced the minimum wage in May 2011, it just happened that our economy was thriving and robust. Meanwhile, the Individual Visit Scheme (IVS) and the handout of \$6,000 per person given by the Government had greatly stimulated local consumption. As a result, the impacts of the minimum wage were weakened. In the article written by Prof Francis LUI Ting-ming, Head of the Department of Economics of The Hong Kong University of Science and Technology, entitled "Anniversary of Minimum Wage — Time to Review Hong Kong's Economy" published on the *Hong Kong Economic Journal* in May, it was pointed out that the negative impacts of

minimum wage have been covered up by some factors. In fact, the survey conducted by the catering industry revealed that in the 11 months between May 2011 and March 2012, the turnover of catering businesses had an average increase of 5.5% as compared with the same period in the preceding year. However, after deducting all the operating costs, half of the businesses had a lower, instead of a higher profit before tax, at a drop of 2%. The situation of the labour intensive Chinese restaurants is even more worrying, as most of them had experienced a drop in profits. On average, their profit rates had decreased by 1.1% on a year-on-year basis; about half of them had even recorded a profit dip of more than 4%. Moreover, 42% of respondents said that they had held back their expansion plan due to the implementation of the minimum wage. Some even said that they would not renew the leases of some of their restaurants upon their expiry. These cases reflect that the minimum wage has undermined the investment incentive of business owners. Some enterprises also said that they had tried to reduce the impacts of minimum wage by combining their posts (28%) and simplifying their menus (39%).

Trade unions often say that we should not put the blame on the minimum wage. In their view, high rental which eats away 30% to 60% of the total income of catering businesses should be the main culprit. Apart from Mr LEE Cheuk-yan, the Hong Kong Federation of Trade Unions also makes such statement time and again. President, I have never said that high rental is not a problem, but we have to look at the facts. According to the statistics of the Government, in each of the past five years, rental only took up 12% to 14% of the total income (that is, the turnover) of catering businesses. These figures differ greatly from the claim of 30% to 60% made by trade unions. Perhaps, their figures do not apply to the catering industry but other industries. However, if they are talking about the catering industry, their claim will only apply to some individual cases. The true picture of the catering industry in Hong Kong is that wage usually takes up a bigger part of the total cost. According to the Government's statistics in 2010, the total wage cost represented 78% of the total income sorry, it should be 27.8%. The main reason behind is that the catering industry is labour intensive and has to rely on staff to maintain high service standard. Therefore, any change in wages will have a significant impact on the industry.

The rental problem will only arise when leases have to be renewed. However, in most cases, leases will only be renewed once every three years or

even at a longer interval. To review the minimum wage rate "once every two years" have already posed a continuous threat to the catering industry, not to mention a review to be conducted "once every year". Recently, some practitioners in the catering industry estimated that about 600 Hong Kong style cafés had closed down last year. In the first 10 months of this year, fewer new restaurants have invited me to cut the ribbon in their opening ceremonies.

Some may say that when a restaurant closes down, a new one will join the market, as evidenced by the steady numbers of restaurant licences and small and medium enterprises (SMEs). However, I would like to remind you, over the last year, the surging operating cost has stifled the development of enterprises that are financially weak and have operated for a short time. It is getting harder and harder for SMEs to survive. The diversity in the market has also decreased. Next year, the Government may not give the \$6,000 handouts again. Meanwhile, the spending power of IVS visitors has shown a declining sign and the global economy is ailing. Therefore, most of the catering businesses expect that it will be harder for them to shift the costs to consumers. The real challenge posed by the minimum wage may soon come to us, and we must be pragmatic and prudent. In view of the above, I oppose the original motion and all of its amendments. President, I so submit.

MRS REGINA IP (in Cantonese): President, I speak to oppose the motion of Mr Frederick FUNG and most of the amendments.

President, two years ago, this Council passed the Minimum Wage Bill (the Bill) after a marathon debate. At that time, I supported the Bill and the conduct of a review "once every year". Before the Bill was passed, there were many different views in the community. Of course, I had received many opinions, including those from academics, economists and the business sector. They held that the implementation of the minimum wage would have significant impacts on the economy, as well as the operation of small and medium enterprises (SMEs). Notwithstanding this view, I supported the introduction of the Minimum Wage Ordinance (MWO) as I agree to its philosophy. I believe it is correct to set a wage floor for the most disadvantaged workers in our society.

When I gave my support to the MWO as a citizen and consumer, I had already envisaged that we would have to pay more for necessary daily services

following the increase in wages. Services ranging from building management, cleaning to meals in Hong Kong-style cafés would all become more expensive. As a matter of fact, this is the case. People have to pay higher management fees and cleaning fees for their buildings, or they have to pay more for meals in Hong Kong-style cafés. However, as a citizen, I am willing to pay more because a wage floor can help the most disadvantaged workers.

Some colleagues have just mentioned international practices. In setting a minimum wage, it is also an international practice to set a wage floor, that is, the minimum level of wage. We are not providing a living wage or a wage subsidy to ensure that workers have a specified living standard. In my view, wage floor and living wage are two completely different concepts which should not be mixed up. Before the passage of the Bill mentioned above, some groups had tried to seek my support for setting the minimum wage at the level of a specified living wage. Some even advocated that the living wage should be enough for a worker to support a family of two or a family of 2.5 members. Yet, I do not think this suggestion is appropriate because this kind of equalitarianism will impair our economic momentum which has long been driven by the market effectively. Therefore, I think it was correct to set the minimum wage level at \$28 per hour two years ago. If the minimum wage level was set too high, not only Chinese restaurants just mentioned by Mr Tommy CHEUNG could not afford, many SMEs would also have difficulties in bearing the costs.

As regards the proposal of conducting reviews "once every year" or how reviews should be conducted, I have reviewed some international practices, and I found that federal states in the United States review their minimum wages once in several years. The latest review was conducted in 2007. Their adjustment of the minimum wage is made through legislation, to be executed in three phases. Among those 50 states, 26 of them review their rates every year but they share the view of the New People's Party (NPP), that is, the minimum wage should be adjusted according to inflation. While adjustment is made automatically by referring to inflation, it can hardly be regarded as a review. We think it is right for the minimum wage rate to be adjusted automatically based on the objective figure derived from inflation because such adjustment can help maintain the real value of the minimum wage. As for the request for an in-depth review and a significant adjustment, even in the cases of many foreign countries, they have to consider a number of factors. Apart from inflation and consumer price index, they also have to consider the overall impacts on economy and the views of the

groups being affected. Therefore, in my view, if we want to have an in-depth review, we should wait till the minimum wage has been implemented for a period long enough for us to know its economic impacts. Only by then can we make a proper decision. It is not right to make a significant adjustment in haste.

Therefore, we, the NPP, agree that the minimum wage should be automatic adjusted annually according to the inflation rate. Yet, any significant increase will warrant an in-depth study and should only be made after taking into account a basket of factors. Take the United Kingdom as an example. This country adjusts its minimum wage frequently, but we must not forget that it has got four levels of minimum wage which apply to adult workers aged 21 or above, workers in the development process aged between 18 and 20, workers aged 16 or 17 and apprentices respectively. Setting various minimum wage rates can cushion the effect on economy and avoid workers in the labour market being adversely affected by an excessively high wage.

Regarding the amendments proposed by fellow colleagues, while I know that Dr Fernando CHEUNG proposes his amendment with a good intention to help persons with disabilities, I am afraid that it may end up harming their interests. He urges the Government to provide subsidy (of course, the consent of the Government is required) so as to enable employees with disabilities to enjoy the same wage as able-bodied people. On this point, not only do we have to consider the public expenditure incurred, but more importantly, whether the provision of such subsidy, if agreed by the Government, will in effect damper the drive of disabled employees to enhance their productivity. It will in turn become a reverse protection which takes away their incentive to improve their working abilities.

As for Mr CHEUNG Kwok-che's amendment which seeks the Minimum Wage Commission (MWC) to include representatives nominated by labour groups, I think it is better for the Government to explain how it appoints members of the MWC. Is the appointment similar to the appointment of representatives of employees and employers to the Labour Advisory Board? Or is it made on an *ad personam* basis, a common practice adopted by the Government in appointing members of advisory committees so as to ensure that the MWC can have more independent and objective views? I would like to first listen to the explanation of the Secretary for Labour and Welfare on this issue before I make up my mind on voting. However, I have grave concerns about conducting review

mandatorily "once every year" or raising the minimum wage to the level of \$33 or above per hour because it may pose great burden to SMEs. I find it hard to support them.

Thank you, President.

MR YIU SI-WING (in Cantonese): President, it has been about one and a half years since the implementation of the Minimum Wage Ordinance on 1 May 2011, with the initial statutory minimum wage (SMW) set at the level of \$28 per hour. In my view, the introduction of the minimum wage can really achieve the purpose of protecting low-income people by giving them a reasonable wage so that their livelihood can be properly safeguarded.

According to the press, on 25 September, the Minimum Wage Commission (MWC), comprising representatives of employees and employers as well as academics, has reached a consensus on lifting the minimum wage to the level of \$30 per hour, representing an increase of 7.1%. This increase is expected to give a pay rise to 327 000 wage earners in May next year at the earliest. Although the increase in the minimum wage rate is a sensitive issue which affects more than 1 million grass-roots workers, it is settled in a rational and harmonious manner amidst arguments and controversies. I am in support of this attitude.

As Hong Kong is an externally-oriented economy, and there are now many uncertainties in the external economy, local industries related to tourism, including travel agents, hotels, shopping centres, restaurants, transportation, tourist attractions and entertainment places, have already been affected. Furthermore, in recent years, the soaring rents in Hong Kong and the increase in various expenses have caused increasing operation difficulties to the tourism industry. Any unreasonable increase in wages will only further worsen the business environment.

President, there are over 1 600 travel agents in Hong Kong and most of them are small and medium agents. In order to cut costs, many employers of travel agents have to take up various tasks and work together with their staff, including making contacts with clients, hotel and air ticket reservation, and design of itineraries. Sometimes, they may even have to act as tour guide. If

the minimum wage level is to be raised unreasonably, some travel agents which cannot afford to offer a better salary to attract talents may shrink. Some travel agents may lay off employees to cut costs, and some may even have to close down.

Moreover, since the introduction of the minimum wage, it is difficult for hotels, airlines and restaurants to recruit employees to fill up certain vacancies. As these industries already suffer from tight manpower supply, they cannot lay off more staff to control cost. They have no choice but to raise their prices to meet the increasing cost, which will trigger inflation in the short run, and in the long run, undermine Hong Kong's competitiveness in the regional tourist market.

I agree that the minimum wage policy can help workers secure a reasonable wage level. However, the Government should balance the interests of employees and employers at the same time to create a win-win-win situation for employees, employers and consumers, so as to ensure that this policy can be executed effectively. In view of this, it is very important to set the minimum wage at an objective and reasonable level to benefit Hong Kong; otherwise, the harm it does to Hong Kong will be beyond our expectation.

I would like to reiterate that I respect the MWC's recommendation on increasing the minimum wage but I do not agree to raise the minimum wage to the level of \$33 or above per hour. In addition, I object to the proposal of shortening the review cycle from "once every two years" to "once every year".

I so submit.

MR ANDREW LEUNG (in Cantonese): President, as the minimum wage has only been introduced for one and a half years, and its impacts on economy, labour market, and so on, are not yet certain, I do not think it is suitable to propose any legislative amendments rashly. It takes time for the community to adapt to any new policies, particularly an important policy like the one on minimum wage, and study their impacts. In our view, the wage level should not be raised in haste, not to mention making significant legislative amendments before the Government can get hold of comprehensive statistics for economic impact assessment, including wage increases caused by the ripple effect and the affordability of SMEs.

When the Legislative Council started to discuss the Minimum Wage Bill in 2009, I had already emphasized that, for the minimum wage rate to be objective, it must be determined by a commission with members coming from the labour sector, the business sector and the academia, and the commission should make the decision based on objective statistics in a responsible manner. At that time, I stressed that only a rate derived from objective statistics could justly reflect the minimum wage, expressed in terms of an hourly rate, so as to meet the legislative intent. The business sector had repeatedly emphasized that if the Legislative Council was empowered to amend the rate recommended by the Minimum Wage Commission (MWC), the minimum wage issue would become a political controversy, with Members from the labour sector striving for a higher rate, and Members from the business sector asking for a lower rate in the light of the affordability of enterprises. Wage adjustments would then become a tool for Members to secure votes, and the arguments would never stop. At the end of the day, wage earners would be the biggest losers.

On the issue of minimum wage, I have emphasized once and again that wage is the reward paid to individual employees for their efforts. Therefore, when we enacted the legislation in 2010, we had made it clear that the MWC should, in setting the minimum wage rate, forestall excessively low wages, minimize the loss of low-paid jobs and sustain Hong Kong's economic growth and competitiveness. The MWC was also required to consider a basket of indicators. Meanwhile, in setting the wage floor, the Census and Statistics Department should collect comprehensive data for detailed analyses by the Economists. All the information should be open to the public. However, this time, the Government has not done its part. It has only provided the above information to the MWC for consideration without allowing public access. As a result, people cannot make any comparison nor have any discussion. The wage level is determined by the MWC behind closed door. The business sector would like to get hold of more data for discussion; yet now we have to reluctantly accept the rate of \$30 per hour as recommended by the MWC. We are of the view that we should play by the rules as there is already a mechanism for reaching consensus. I do not understand why some Members now ask for a higher rate. I think we should respect the recommendation of the MWC.

Regarding the issue of reviewing the minimum wage "once every year", the Bills Committee had already discussed this point in detail. As minimum wage is the wage floor, I do not think it has to be reviewed every year. Furthermore, it

will at least take one full year to collect comprehensive data to get a clear picture of how different industries are affected in their low and high seasons. These data are necessary for making a comparison with the data before the enactment of legislation, including the inflation rate, so that an objective minimum wage level can be set to tie in with the situation of Hong Kong. In the United Kingdom, the Labour Party has also conducted detailed economic assessments before setting the minimum wage, and the wage level has been lifted gradually to minimize the impact on the less competitive employees.

As regards whether disabled employees should be excluded from the legislation or how they should be handled, we had held four meetings to discuss this issue during the scrutiny of the legislation, and our views are still divided. A number of deputations and individuals representing persons with disabilities, as well as their parents, worried that some persons with disabilities might lose their job opportunities after legislation; hence they requested to exclude persons with disabilities from the legislation. On the other hand, some had similar views as that just raised by Dr Fernando CHEUNG, they urged the Government to amend the legislation to give persons with disabilities employment protection and wage subsidy so that they could have the same right as other people. Yet, the majority view was that the legislation should not affect the existing job opportunities of employees with disabilities so that they could keep their jobs and keep in touch with the community or continue to look for jobs based on their abilities. Besides, many employers of SMEs had reflected to me that if the Government made legislative amendments to stipulate that employers who dismissed persons with disabilities on the basis of their productivity assessment results must be bound by the legislation, they were afraid that they would be caught by the law. In turn, they might employ fewer disabled employees; some might even stop recruiting persons with disabilities. This will directly reduce the job opportunities of persons with disabilities, and I do not think it is what Dr Fernando CHEUNG would want to see.

The proposals made in today's motion and in the amendments had indeed been discussed in detail when the Bills Committee scrutinized the Minimum Wage Bill in the past. Apart from Dr Fernando CHEUNG, who was not a Legislative Council Member then, a number of Members now in the Chamber had actually joined the Bills Committee. However, they are now making proposals to overrule the Bill, which passed the Third Reading on 17 July 2010 they now put forward a different view and even demand to overrule our

voting result on that day. Every piece of legislation is enacted after discussions of Members, and the enactment is the result of trust and compromise which warrants our respect. As the minimum wage has only been introduced for less than two years and the economy is wavering, any amendment may have strong impact on both the employers and employees.

President, over the last year, we have noticed that there are many young people joining the security industry and the property management industry. Of course, it is good to these two industries; but in industries like the manufacturing industry and the logistics industry, there is a gap in succession since fewer youngsters are willing to take up the tougher jobs in these industries. Therefore, in our discussion on the rate of minimum wage, I hope we can base on the objective data and take the long-term development of Hong Kong as our top priority.

I so submit.

MR FRANKIE YICK (in Cantonese): President, the introduction of the minimum wage last year has actually brought "a big change" to the grass-roots labour market. Some jobs, such as security guards, have suddenly become very popular but some industries, such as the logistics and transportation industry just mentioned by Mr Andrew LEUNG, are suffering from serious drain of manpower. Business operators in my sector often complain to me that after the introduction of the minimum wage, it is more and more difficult for them to hire workers.

As the freight industry was hard hit by the global financial tsunami, many truck drivers have changed to other trades. Even when the industry has later picked up slightly, few people have returned to this trade. Although truck drivers are paid more than the minimum wage, more drivers have changed their jobs after the implementation of the minimum wage. Many of them prefer to get a new job which is more comfortable and stable. It is particularly difficult to employ cross-boundary truck drivers. A higher wage and even free training courses have failed to attract job applicants. Currently, there is an ageing problem with truck drivers, with about half of them aged between 50 to 59 years and they will retire one after another; and coupled with the dim prospect of the freight industry, it is really difficult to attract new drivers. Owing to the

succession problem and the serious shortage of drivers, the situation of "having trucks but no drivers" has arisen. We estimate that some several thousand trucks are now left idle.

In the past, Hong Kong was renowned for safe and efficient transportation in freight industry. Yet, ever since the industry has the problem of shortage of manpower, not only has our cargo capacity dropped, our efficiency in transportation has also declined. Sometimes, there may even be delays. Many cargoes are now transported from the fast-developing Yantian Port in Shenzhen or Shekou. The industry is at their wit's end in handling the driver shortage problem. Raising the level of minimum wage will just further aggravate the problem. By then, even with the commissioning of the Hong Kong-Zhuhai-Macao Bridge in 2016, Hong Kong will not be able to take advantage of the closer link between Hong Kong and western Zhujiang to tap the larger market.

As a matter of fact, the logistics and freight industry is facing keen competition from the nearby Mainland cities. The cargo throughput of the container terminal in Shenzhen is comparable to that of Hong Kong and may surpass Hong Kong at anytime. Meanwhile, since the global economy is still weak and the freight volume is reducing, the logistics industry in Hong Kong has to face daunting challenges. Therefore, although the operating costs are on the rise in recent years, with higher expenses for oil, repair and maintenance, insurance, and so on, the industry dares not shift their costs to consignors by increasing their freight charges, for fear of losing their clients. Furthermore, as the external economy is uncertain and the growth of the Mainland economy is slowing down, the freight industry may suffer another blow at anytime. If the minimum wage rate is raised at this moment, it will just make the operation of the industry even more difficult. The industry, particularly small and medium enterprises, can hardly afford to pay a higher salary to attract talents. Eventually, there will be waves of closures. The competitiveness of the logistics and freight industry in Hong Kong will be further weakened.

Although the minimum wage is now set at the rate of \$28 per hour, the actual wage rate is much higher after market adjustment. Therefore, the transport sector hold that, under the current economic situation, the minimum wage level should remain unchanged and let the market decides on the wage rate. In fact, our view is in line with some of the recent surveys. In May this year, the

Department of Management of the City University of Hong Kong released its report on Hong Kong Employee Confidence and Opinion about Minimum Wage and Standard Working Hours Survey 2012. According to the findings, 60% of respondents agreed that the current minimum wage of \$28 per hour was appropriate and 77% opposed the idea of adjusting the minimum wage downward at a time of economic recession. These findings clearly show that local employees are also aware of the problem of having an excessively high wage as it may cause them to lose their jobs consequently.

According to the projection of the local freight industry, their turnover as a whole has dropped by 5% to 8% and more than 100 transport companies have closed down after the minimum wage has been introduced for a year. Right now, the Minimum Wage Commission (MWC) has made a preliminary recommendation to raise the minimum wage to the level of \$30 per hour, giving an increase of 7.1%. I believe that if this recommendation is accepted, the freight industry will shrink further. I can hardly imagine how many enterprises will have to close down if the minimum wage is increased by 18% to the level of \$33 per hour.

As for the proposal of reviewing the minimum wage "once every year", the industry is not in support of it because we are still struggling with the problems caused by the minimum wage, though it has already been introduced for more than a year. Also, we are concerned about the fact that, when the review is currently conducted "once every two years", the authorities and the MWC have started working on the review since last September to prepare for the implementation of the new minimum wage in May next year. We can foresee that if the review is to be conducted "once every year", they will have to start working on the next review right after the implementation of the new rate. Will they be able to get a complete set of statistics in this situation? We really have doubt about this. Furthermore, implementing a new wage rate in haste will aggravate the existing problems. In the end, it will bring the labour market with disasters beyond expectation, doing more harm than good.

In conclusion, under the current business environment, the logistics and freight industry does not want to have any change of the minimum wage level or its review system before the problem of manpower shortage is solved. President, I so submit.

MR CHUNG KWOK-PAN (in Cantonese): President, after the introduction of the legislation which provides for a statutory minimum wage of \$28 per hour, we are pleased to see that the grassroots have got a better income and hence a better life. The policy intention of forestalling excessively low wages for grass-roots workers has been achieved.

However, while the implementation of the minimum wage has greatly benefited the grassroots without affecting the rich, a group which suffers most is left forgotten. They are the middle class. Nobody speaks for them, even though the minimum wage has added pressure to their life. From the perspective of the wage level, it is true that grass-roots workers have got a better pay. Yet, the minimum wage has driven up the operating costs of small and medium enterprises (SMEs), and the increase in wage cost is now often shifted to prices. As the saying goes, "The wool still comes from the sheep's back". When management fees, food and beverage costs and many other expenses have all gone up, the middle class is the group which suffers most in times of price rise. For example, after the introduction of the minimum wage, flat owners have paid more for their daily expenses over the last year. More than 1 million flat owners are affected by the increase in management fees, security fees, cleaning fees, and so on. In addition, the middle class have to pay more when they go out for meals as the cost for a lunch box has increased from \$20-odd to some \$30 or \$40.

According to the Government's statistics, after the introduction of the minimum wage, the basic monthly salary of employees in the lowest echelon has increased to \$6,900, as compared with \$5,900 a year ago, representing an increase of about 17%. If the minimum wage rate is to be increased from \$28 to \$33 as requested right now, there will be another increase of 17.9% (almost 18%). I do not know if there is any scientific data to justify this proposed increase; but if we compare it with Hong Kong's inflation rates in the last two years, we will see the contrast. In 2010, the inflation rate was around 2.4%; and in 2011, 5.3%. As at September this year, the inflation was 3.9%. In view of this, it is completely unreasonable to demand for an increase of 17% or 18% every time when the minimum wage is adjusted.

The Minimum Wage Commission (MWC) now recommends the minimum wage to be set at the level of about \$30 per hour, representing an increase of 7.1%, which is more reasonable. An unrestrained adjustment on top of the

current rate will just force SMEs to shift their costs to prices, causing the middle class to suffer more. In the long run, the economic development of Hong Kong will be affected and this vicious cycle will never stop.

What is more, while the introduction of the minimum wage is beneficial to grass-roots workers, some vacancies are difficult to fill. At present, many jobs are detested by job applicants. For instance, very few people apply for obnoxious jobs, in particular those requiring more physical work, such as cleaning, washing dishes, sweeping streets, and so on. A lot of employers grumble about failing to recruit workers. In a recent job fair held by the Labour Department, some restaurants offer a salary of \$11,000 for the post of waiter. Yet, they cannot even find one suitable candidate. As mentioned before, most candidates in the job fair preferred to work as security guards. If employers want to get the right candidates, they have to increase the salary, and their operating costs will in turn be pushed up further.

In times of adversity, all trades and industries have developed different strategies to cope with the challenges. Apart from raising the fees and charges, some may lay off their staff, and some employers may apply automation to replace manpower so as to streamline the work processes. When the economic environment changes, the problems of unemployment and job reduction may become more serious.

The Liberal Party always considers that minimum wage is a "double-edged sword". While legislation for minimum wage can forestall excessively low wages for grass-roots workers, some undesirable effects will also be resulted. If minimum wage fails to be introduced in a balanced and objective manner, SMEs and the middle class will have to bear additional pressure. We should take care of the middle class as well. Given that the middle class is the group which suffers most, I think they should have their representatives in the MWC, in which both employers and employees are represented, to speak up for them and voice their plight in the MWC. Different sectors of the community should be rational, pragmatic and maintain the spirit of mutual help in the implementation of minimum wage, without benefiting grass-roots workers at the expense of other classes, particularly the middle class and SMEs.

Thank you, President. I so submit.

MR ALAN LEONG (in Cantonese): President, concerning the issue of whether we should legislate for minimum wage, this Council passed the Minimum Wage Bill (the Bill) two years ago and the relevant ordinance has already come into effect for almost two years on the basis of a social consensus. Today, apart from ensuring that the minimum wage policy is implemented on the basis of social consensus, we also have to ensure that the original legislative effect can be manifested and carried through.

The Civic Party supports Mr Frederick FUNG's original motion and the amendments moved by other Members because in the course of debate of the Bill in this Council, the Civic Party's stance had already covered all the issues mentioned in the motion and the amendments, hence, we are just being consistent.

President, whenever we talk about matters such as minimum wage or — as the President may still remember — the measure of smoking ban in restaurants which had already implemented, Members representing the industries concerned or the business sector have always put forward some frightening figures. I still remember when this Council debated on the Bill, the business sector once pointed out that after the implementation of the minimum wage, many enterprises would go out of business, leading to problems of serious unemployment.

However, President, you may notice that according to the latest figures released, the unemployment rate in Hong Kong is only 3.3%, meaning that one year after the implementation of the statutory minimum wage, our unemployment rate is still at a rather low level. We do hear the concerns expressed by the business sector and we also respect them, but very often we find that many of the worries expressed are proven to be over-exaggerated in reality.

President, the Civic Party has always supported the implementation of the minimum wage to protect the underprivileged wage earners who have no bargaining power. Many Members, including those from the business sector, also pointed out in their speeches earlier that since the minimum wage was implemented more than a year ago, the wages of jobs undertaken by most grass-roots workers, such as cleaning workers and security guards, have been protected by law and workers engaging in these jobs have received a pay rise.

President, the Civic Party has all along supported the proposal of conducting a review once every year, mainly because we have set the initial minimum wage rate at a slightly lower level We do not wish to see that the data adopted for the review lag behind the prevailing economic situation, resulting in the relevant policy not being able to achieve the best results.

The arrangement of conducting a review "once every year" is beneficial to both employers and employees. As the saying goes "good times do not last long", an economic boom may not last indefinitely. When the economy slows down, employers will also benefit from the mechanism of conducting a review "once every year" as they will not be restricted by the review data, which lag behind the real economic situation, and thus fail to make timely reduction of their operation costs. Therefore, the Civic Party maintains the stance that it had held when the Bill was discussed two years ago and supports to conduct the review "once every year", as that is the most effective arrangement for upholding the policy objective and ensuring the effect of the minimum wage policy will not lag behind the real situation.

President, during the Second and Third Readings of the Bill in this Council, I had also expressed concerns about the conditions of employees with disabilities after the implementation of the minimum wage. Employees with disabilities may choose to undergo a productivity assessment and get the statutory minimum wage according to their productivity. In other words, their wages are reduced by a percentage point. Besides, because the productivity assessment is a one-off assessment and there is no appeal mechanism and continuous assessment in place, employees with disabilities are in a very disadvantaged position.

The Civic Party thinks that since this unjust arrangement cannot be cancelled immediately, the Government should establish a wage subsidy system and make up for the shortfall between the actual wage of the disabled employees and the minimum wage so that these disabled employees can enjoy the same treatment as the able-bodied. Only then can a safety net be set up for the disabled employees and enhance their motivation for supporting themselves.

President, I speak on behalf of the Civic Party to express our support to the original motion and the three amendments.

MR NG LEUNG-SING (in Cantonese): President, the purpose of legislating for the minimum wage is to protect grass-roots workers so that they can meet their basic needs. After over 10 years of heated argument, the statutory minimum wage was finally implemented in 2011, with the first statutory level determined on 10 November 2011 at \$28 per hour.

Since the minimum wage was implemented over a year ago, the economy has been rather stable owing to the commencement of major infrastructural works, repair works of old buildings, as well as increase of visitors coming to Hong Kong under the Individual Visit Scheme. Hence, the employment market is stable and the unemployment rate remains low. At the same time, there is also the phenomenon that some older workers lose their jobs while some construction firms and small and medium enterprises (SMEs) have difficulties in employing workers.

The wages of the low-income workers have increased. According to the recent analysis made by the Hong Kong Council of Social Service on the figures released in 2011 Population Census Household Income Distribution in Hong Kong by the Census and Statistics Department, the poverty rate in 2011 was 17.1% with a poverty population of about 1.15 million, the lowest in 10 years. The analysis attributes this to the provision of the minimum wage. However, the poverty rate among the elderly has slightly risen and there were over 288 000 elderly people in poverty. It is highly probable that the policy on the minimum wage has affected the employment of elderly workers whose unemployment rate remains high. Because of that we had to discuss the special Old Age Allowance last night.

According to another survey, as many as 600 cafes closed down last year. These small enterprises face great difficulties in their operation. Under the attack of continuous rent hikes and minimum wage, small and medium eateries are losing ground on their survival which surely will lead to the unemployment of some people. No wonder some think that the legislation for minimum wage is "a disservice done with good intentions" for certain people.

After the minimum wage has been implemented for more than a year, the review on the level of minimum wage has aroused another row between employers and employees. The labour sector demanded an hourly wage of \$33 or even \$35 and the business sector made a counter offer of maintaining the

present level or only a slight adjustment. After a series of marathon meetings in the past month and a tug of war over the minimum wage level, the Minimum Wage Commission (MWC), a statutory body, reached the agreement of an hourly wage of \$30 and it will submit a proposal to the Chief Executive for approval before the end of this month.

President, in my view, in the first few years of the implementation of the minimum wage, we should "cross the river by feeling the stones", including setting an appropriate minimum wage level, especially in the face of uncertain economic prospects. While we have to suitably improve workers' wages, we also have to address the difficulties faced by SMEs in their operation. Hence the level of minimum wage should not be adjusted too hastily. Based on the relevant data, the MWC has reviewed the level of statutory minimum wage comprehensively, objectively and impartially. Apart from viewing a basket of relevant data as indicators, the MWC has also analysed the figures concerning wage distribution and other findings, made an assessment of the potential impact of the minimum wage level, and then put forward a recommendation on the level of the statutory minimum wage, after taking into full account the views of various sectors of the community. The recent recommendation on the minimum wage level worked out by this approach is basically reasonable.

President, I believe it is absolutely right for Members to argue strongly on sound grounds for members of the public and express their aspirations in this Chamber, however they should not take this opportunity to denounce Members belonging to other political parties or with different views, nor should they denounce government officials. I think the MWC's adoption of an evidence-based approach to foster a consensus is commendable. This can reduce meaningless and fruitless rows.

As regards the frequency of review of the minimum wage, under the present situation where the economy is relatively stable, I think it is a pragmatic approach to maintain the "once every two years" interval. If reviews are conducted once every year, although employees will benefit from the small increase in the minimum wage, for employers who are investors, especially owners of SMEs, frequent adjustments to the minimum wage as a result of the "once every year" review and the uncertainty about the investment cost, including the wage, MPF and administration costs, will adversely affect their investment sentiment. They may consider employing workers on short-term contracts, or

they may, as stated by the Secretary, "turn more jobs into casual jobs", which in the end may cause employees to lose more than they gain.

President, employees are valuable assets of enterprises and their hard work should be rightly rewarded. The legislation for the minimum wage is the first step and we need to continue to stride forward carefully and steadily in future. The adjustment to the level of minimum wage should be handled by a commission with credibility which will consider the issue based on actual figures to order to strive for a consensus. We should not rush into reviews and it is more pragmatic and acceptable to conduct reviews once every two years.

President, I so submit.

MR TANG KA-PIU (in Cantonese): President, many Members, especially those with a business background, who spoke earlier concluded that the minimum wage system was the culprit for inflation, killer of middle-aged and elderly workers, as well as the source of shrinkage of various trades and industries. Of course there are also Members who put forward other figures to dissipate our fear. Regarding the above three accusations, I would also like to put forward some figures. For example, we all respect and care about the elderly. Regarding the newly published unemployment rates covering the period after the implementation of the minimum wage to the last quarter, we can see that in the four months between August and December 2011, the unemployment rate of people aged between 50 and 59 was only 0.1% higher than the overall average rate. Recently, the unemployment rate of workers aged 60 or above is 1.5% and 2.9% for workers aged between 50 and 59, while the overall unemployment is 3.5%.

I believe that Members are over-worried about Hong Kong people's entrepreneurial spirit and their health because we can withstand hardship. Of course, before the implementation of a universal or an integrated retirement protection scheme, wage earners still have to work until they are 70 years old, so we need not get frightened. A kaifong in my local communities once told me that he was already 65 and he was greatly worried that his licence for security guards would be changed to type A licence, meaning that he could only work in single-block building. If all single-block buildings were redeveloped in urban renewal projects, there would be few such jobs left for people like him. In fact, there are still sufficient jobs in the market.

Secondly, concerning the accusation that minimum wage is the source of shrinkage of various trades and industries, such as the catering and transportation industries as mentioned by some Members earlier, they mentioned that only the security industry thrived. In fact, if Members have contacted the owners of small and medium firms in the security industry, these owners often ask if Members can introduce workers to them or help them organize job fair. I do not see any trades or industries that have recruited enough workers. The daily wage for construction workers is between \$1,100 and \$1,700 but construction workers are always in short supply. What industry can employ sufficient workers? Actually, manpower is in short supply in many industries because the economy has recovered. When the economy has recovered, some Members still say it is sluggish and the prospects are bleak.

We also see that the minimum wages in Mainland cities, such as Shenzhen and other big cities, have had double-digit increases in the past decade. Of course, it seems that we are asking too much for a 17% increase but how do we arrive at \$33? Actually, it can also be explained by the term used by the Secretary recently, that is, different aspects are inter-related. In the Work Incentive Transport Subsidy Scheme launched by the Secretary, \$7,300 is used as an indicator, that is, applicants' wages must be lower than \$7,300 because if the wage is set too low, people do not want to go out to work. Hence, \$7,300 is the right standard. To encourage people earning wages lower than \$7,300 to go out to work, this sounds reasonable. But what is the concept of \$33? If we times \$33 by nine hours and by 26 days, we get \$7,700, which is very close to \$7,300. That is the first point.

Second, we say that the wage earned by the poor population is one half of the median wage, which is now \$11,000. We usually say that this group of people are poor. What is meant by low income? Usually it is 70% of the median wage, which is \$7,700 and that is also the amount that I mentioned earlier, that is, \$33 times nine hours times 26 days, and that is how it comes about. The Secretary has also candidly told our friends from the business sector that the minimum wage can help the poor. But to what extent can it help? From his various speeches from last Wednesday to today, he has said that their pay rise is 0.3% higher than the inflation rate. I have to "thank" them on behalf of grass-roots workers. Is it getting too far? Will minimum wage really bring down the economy and are we paying the grass-roots workers too much? The result is only 0.3%. Many Honourable colleagues have also said that the pay

rise for civil servants or judicial officers this year are 5.3% and 5.6% respectively. The combined increase of the minimum wage rate in two years is only 7.1%, which is definitely lower than inflation.

One indicator for the great disparity between the rich and the poor is the gap between the 10% of people with the highest income and the 10% of people with the lowest income. We do not wish to drastically narrow the gap artificially, but this is an indicator. If the increase of the lowest income is always below inflation, certainly the problem of wealth gap will never be solved but will continue to aggravate. Therefore, I do not understand why people would consider \$33 a scourge. As some Members have said, workers of the five bus companies have, under the leadership of the Motor Transport Workers General Union, strived for a wage increase between 5% and 5.5% a year, and they are not demanding too much.

Therefore, I hope that the Government, especially the Chief Executive, can hear the cry from the grassroots that their purchasing power has been eroding. Many Members also accused the minimum wage as the culprit for inflation. Of course, inflation is the reflection of the overall economic activities but as the United States continue to print money in M1, M2 and M3, inflation has been pushed up through various derivative tools. Has this to do with the grass-roots workers? Take our neighbour the Mainland as an example, we all know that it has very close relationship with Hong Kong and over one half of all our necessities are imported from the Mainland. However, everyone knows that the cumulative increase in the exchange rate of Renminbi against Hong Kong dollars for the last three years is over 10%. In other words, the inflation is mainly caused by this factor. Food is another cause. For example, the wholesale price of one tonne of pork was \$16,000 in 2009 and \$24,499 in 2011, with an increase rate of 52.7%; and vegetable (pak choi), which was \$4.3 in 2009 and \$6.1 in 2011. The increase does not seem too much but the increase rate was 41.5% already. Therefore, after calculation, we find that these are the causes of inflation. I have not mentioned the rent as many Members have talked about this issue already. I hope that you will stop blaming workers and the minimum wage. Finally, I am also in support of Mr Frederick FUNG's motion. Thank you.

MISS ALICE MAK (in Cantonese): President, in Hong Kong, the issue of working poor or inter-generational poverty is nothing new, neither is it an uncommon social phenomenon. For a long time, many employees, especially grass-roots wage earners who lack bargaining power, have been in a predicament. No matter how hard they work, even over 10 hours a day, they still cannot make ends meet and provide for their families. That was the situation in the past and it is no different today.

However, we cannot accept what is wrong as right and turn a blind eye to them or even pretend that it is right to do so. To address this problem, the Federation of Trade Unions (FTU) has advocated for enacting legislation to regulate minimum wage and standard working hours for many years. We have also actively engaged in many activities to urge the Government to implement our proposals, such activities include organizing processions and petitions, as well as raising questions and motions in every term of this Council. To our delight, after the passage of the Minimum Wage Bill in its Third Reading, the statutory minimum wage was implemented on 1 May last year, providing to a certain extent wage protection to the underprivileged workers. This is a great encouragement to the labour sector, which is also a new milestone for their struggle for workers' rights and interests.

However, regrettably, while we expect that the minimum wage can improve the livelihood of grass-roots employees, we do not have standard working hours to complement with it. As the first minimum wage level was set at \$28 per hour, it totally failed to reflect the real economic situation; hence even though low-income workers have a slightly higher income, their livelihood has not improved greatly and the benefit they get is unsatisfactory. Even if the minimum wage is raised from \$28 to \$30 as the Minimum Wage Commission (MWC) has agreed on recently, the hardship currently faced by grass-roots workers in their daily lives cannot be completely removed.

The MWC stated that in determining the level of minimum wage, they would make reference to the economic data of the previous year. As the review is conducted once every two years — basically it cannot wait for two years — the relevant data has lagged behind. In fact, under the impact of rental increase and imported inflation, as Mr TANG Ka-piu has just mentioned, the value of Hong Kong dollars against Renminbi continues to fall. As the overall commodity prices continue to rise in recent years, the grassroots have a hard life. The

Social Affairs Committee of the FTU launched a survey known as "two dishes and one soup" in January 2011, trying to find out the prices of meat and vegetables sold in markets of the 18 districts, so as to understand the trend of food prices in Hong Kong, since "food" is the most important factor that affects our daily lives.

We found that the average food prices in Hong Kong have risen 13.7% year-on-year between 2011 and 2012. The prices of food sold in 11 markets in the 18 districts have recorded a double-digit increase each year, with the prices of some foods rising more than 40% over the past year. You might have read from the newspaper recently that the price of beef has risen again, but the income of grass-roots employees continues to fall.

In May 2011, that is, when the minimum wage was first implemented, the Census and Statistics Department conducted a survey on annual earnings and working hours. It was found that the median monthly salary of employees in Hong Kong was \$12,800 but during the same period, for workers of some industries and trades, such as catering, building management, security and cleaning services, even though they worked long hours, their median monthly salary was well below that level. For full-time employees who worked over 50 hours, or even 55 or 54 hours, their median monthly income was less than \$10,000, about \$9,500 or \$8,700. Even though these workers worked longer hours than those of other industries and trades, and their wages had slightly increased because of the minimum wage, they still belonged to the group of the lowest paid in society. They still had to struggle in the face of ever rising commodity prices and their financial burden was still heavy.

President, the main purpose of setting the minimum wage is to protect low-skilled workers who lack the bargaining power, thereby giving them a chance to improve their living quality. This is the rights and interests that they should have and therefore, the wage level has to be set timely, rationally and reasonably. The FTU has always advocated that minimum wage must complement with standard working hours. The minimum wage level has to be set according to the local economic situation, labour conditions, and the data relating to the consumer price index and the level of CSSA, and this level has to be reviewed once every year to keep abreast of the times. Otherwise, our workers cannot provide for their families and will never have the chance to free themselves from poverty. I take this opportunity to urge the HKSAR Government to look squarely at the

needs of the grass-roots families and workers, and let the minimum wage policy give play to its original value and efficacy more effectively.

Here I would like to add a point. A colleague who spoke earlier had said during the election that the rent of "sub-divided units" was very high and there was a need to help residents of old districts who lived in cubicle apartments and "sub-divided units". However, when he mentioned about workers living in "sub-divided units" and cubicle apartments and earning the minimum wage, has he ever thought about how to help these grass-roots workers and not to blame them for causing the inflation? This Honourable colleague is from the business sector but claims that he cares for the residents of "sub-divided units" and cubicle apartments. I would like to ask him to pay some attention to these grass-roots people who are earning the minimum wage and having a hard time to make ends meet.

Thank you, President.

MR RONNY TONG (in Cantonese): President, today's debate is somewhat like *déjà vu* to me. Although many new colleagues have joined us, the contents and arguments put forward in the debate today are practically the same as those put forward when we strived for the minimum wage in this Council of the last term no, not the last term but the term before last.

President, like last time, we also hear many alarmist talks and arguments that are almost threatening. We still remember when we discussed the minimum wage, some colleagues publicly announced within and without this Council that the unemployment rate in Hong Kong would soar out of control, many businesses would close down and local eateries would all go out of business. It has been proven in the last few years that none of these predications turn out to be true.

At this time, when we are to review the minimum hourly rate, why should they bring up those ambiguous arguments again? I feel that someone still do not understand (*Rings of a telephone*) Thank you, tell him that I cannot answer now (*Laughter*) someone still say that the business sector are greatly frightened of the minimum wage because it will jeopardize their livelihood.

President, it is normal that all businessmen want to minimize their costs and maximize their profits, even one or two dollars matter. However, business operators also need to bear some social responsibility. Besides, after all do you believe that business operators will really pay the workers out of their own pockets? Certainly not, they will ultimately shift the costs to the consumers.

Therefore, in this Council, I hear Members from the business sector justify their arguments and solemnly declare that the minimum wage cannot be raised any higher. I think they are hypocrites.

President, the Civic Party's views on this issue involve two levels. Perhaps I repeat them here. The first level is the constitutional duty. Hong Kong is different from other places. Article 39 of the Basic Law states that the International Covenant on Economic, Social and Cultural Rights be implemented in Hong Kong and Article 7 of the Covenant clearly states that all workers should enjoy fair wages to provide a decent living for themselves and their families and there should be a reasonable limitation of working hours.

President, these requirements are not rigid or immutable. Fair wages must be adjusted according to the prevailing living standard of society or even the inflation. The fair wages set three years ago may not still be fair three years later. The hourly wage of \$28 that was enough to provide a decent living for employees and their families three years ago may not be so now. Hence, it is constitutionally right to revise the hourly pay.

President, the second level is of course economical. In fact, many countries recognize that the aim of implementing the minimum wage is to encourage people to work rather than staying at home, sitting in front of the television and doing nothing, and then apply for Comprehensive Social Security Assistance (CSSA). Therefore, if the wage is not sufficient to support a decent living, the basic objective of the minimum wage cannot be achieved.

On the other hand, we have to understand that workers are also humans and a minimum wage can give them the reasonable dignity. You cannot ask a worker to get a wage so meagre that he cannot support himself, let alone meeting other expenses, and he may have to cheat to get CSSA payment to make up for the shortfall. Then that is not a policy that gives the workers the basic dignity.

Therefore, when we come to this point, we must have a more objective yardstick to measure whether the living standards in the community have risen, how much they have risen and how they should be handled. Therefore, seeing that the business sector has stepped forward and said that the minimum wage level should not be raised as it will cut into their profits, I think that is not a reasonable stance.

President, what matters most is that our present system is not perfect. When we debated on the passage of the minimum wage, we gritted our teeth to raise our point that reviews could not be conducted once every two years as such reviews would be totally out of pace with real life. This is what has happened now.

On what data do we base on to propose the hourly wage of \$33 or the hourly rate of \$30 as proposed by the Minimum Wage Commission? President, the rates are calculated on the basis of the figures of 2011. Now that the year 2012 is coming to an end, when will the new rate be implemented? In 2013. During this time, how many times the MTR has raised its fares? How many times the prices of our everyday foods has increased, and the extent of increase? How many times the charges involving various aspects of our daily life, such as transport, housing, rent and the management fees of The Link REIT have increased? Every time The Link REIT raises its charges, all other prices will be pushed up.

If the minimum wage level is to be raised to \$33 as proposed two years later, by that time people will still say that the level should not be raised but should remain at the level four or five years ago. I wonder whether the business operators will say that it is reasonable for their profits to remain the same as those when their company starts its business. If the MTR or the power companies have such an attitude, we do not have to endure an increase in fare or charge every year.

President, \$33 sounds a very big sum — colleagues from the Federation of Trade Unions has explained and I do not repeat here — but after calculation, we will find that it is only slightly higher than CSSA. Even if the hourly wage is set at \$33, considering that a worker works 26 days a month and nine hours a day, he will only earn \$7,300 a month. Is that too much? President, I do not think it is

too much. I hope that colleagues from the business sector will not obstruct the passage of this motion.

MR CHAN KIN-POR (in Cantonese): President, the minimum wage system has run smoothly since its implementation in May last year. With the first minimum wage rate set at \$28 per hour, the wages of grass-roots workers have been considerably adjusted. Although employers have to bear a heavier burden, most of them are still able to continue with their operation. In recent days, the Minimum Wage Commission (MWC) reviewed the level of minimum wage. After heated arguments, an agreement was made and the minimum wage level set at \$30 per hour has been recommended. It is now awaiting the Chief Executive's approval.

In my view, the successful implementation of the minimum wage and the consensus reached on the new minimum wage level are the result of the joint efforts of employers, employees and the Government. It will be hard to achieve anything without the participant of any one of these parties. In fact, a complete set of "rules of the game" has been formulated when the minimum wage system was implemented, one of which is that the MWC will conduct a review once every two years to ensure that the wage level reflects the actual needs of society and is acceptable to employers and employees.

In its discussion about the wage level, other than the stances of employers and employees, the MWC will also take into consideration the overall impact of this policy, including inflation, operation costs and unemployment rate. Therefore, the recommendation put forward by the MWC is the result of thorough consideration and is worthy of our trust.

Today, some Members request the Chief Executive to raise the minimum wage level to \$33 or more per hour. Honestly, this is wishful thinking. If they demand for a \$33 hourly rate and employers insist on freezing the rate at \$28, no agreement can be reached. Therefore, the purpose of the MWC is to help both parties understand each other and compromise. Employers need to understand the needs of workers and workers must also consider the difficulties faced by their employers in their operation, and based on mutual understanding, a wage level agreeable to both parties can be reached. Only in so doing can the minimum wage system be sustained.

Since the "rules of the game" have already been laid down, everyone should follow them. Raising the stakes by one party will be of no avail. Moreover, as the MWC has already reached a consensus, if a party brings up new issues, it will only give others the impression that it is going back on its words. This will set a very bad precedent and in future discussions about the wage level, the basis of mutual trust will be gone.

In fact, many factors have to be taken into account in order to set the minimum wage level, including the economic situation. In the face of global economic uncertainties, there is also a risk of our local economy going down. If the minimum wage level is set too high, once there is an economic downturn, many small and medium enterprises will not be able to withstand the pressure and there will be massive closures of business.

On the other hand, some time after the implementation of the minimum wage system, employers have found an unexpected side effect, which is, after grass-roots workers get a pay rise, their wages catch up with that of the middle level employees, exerting pressure on enterprises for adjusting the wages of these employees. In the end, the actual increase in expenditure borne by employers is higher than what was originally expected. Therefore, when adjusting the minimum wage level, one has to take into consideration all aspects of the actual situation; otherwise the consequences will be underestimated.

As regards the issue about conducting a review once every two years, the whole system has been in operation for just over a year and its actual advantages and disadvantages have not been fully revealed. I believe that the system should be allowed to run for a longer time before a comprehensive review is conducted.

I believe that in order to strive for a better pay for workers, the best way is to boost the economy. When the economy is booming, workers will have cogent justifications for their request for further increases of the minimum wage level and employers will gladly accept.

I so submit.

MR MICHAEL TIEN (in Cantonese): President, excuse me. I do not know the timer activates so soon and the timer has been activated already. President, I have not yet fixed the microphone yet.

PRESIDENT (in Cantonese): Please speak immediately.

MR MICHAEL TIEN (in Cantonese): Concerning the motion on raising the minimum wage level to \$33 or above per hour, my first impression was somewhat baffled and then I have the impression that it was a "lose-hit, win-take" situation. Why do I say that I was baffled? There was a broad discussion in the community about the calculation of the minimum wage level two years ago. The issues discussed today had already been discussed then, including the basic living standard, protection of workers against exploitation, the gains and losses of various stakeholders, and so on. It was then decided that the minimum wage level was set at \$28 per hour. We are now following the agreement made two years ago, that is, to review the minimum wage level once every two years. The discussion should take \$28 as the starting point. Before we make a decision, we should consider what have happened in Hong Kong in these two years and their impacts on all stakeholders, and then set a new level accordingly. It should not start from zero. You say that we should ignore the amount of \$28 and start the discussion again from zero; that does not work. You can have a discussion with \$33, \$35 or \$40 as the starting point. Therefore, I am totally baffled. Is it that we have to discuss all problems all over again every time?

Regarding my feeling of "lose-hit, win-take", actually at that time the labour sector also supported the establishment of the Minimum Wage Commission, comprising representatives from three parties. We trust these representatives and allow them discuss the issue. The first proposal came out from the discussion was an hourly rate of \$28. Many from the business sector considered it too high. I did not express any views because it had been agreed that the issue was discussed by the three parties concerned. Concerning the figure agreed, they would accept the figure if it is to their liking but if it is not, they would say that the Commission was somewhat wrong and that it had not represented the labour sector? Hence, I think that their attitude is somewhat "lose-hit, win-take".

I think that we should discuss the new level with \$28 as the starting point. There are three points to note. As a member of the business sector, to avoid causing suspicion, I will not talk about the affordability of employers, nor the closure of businesses or any other problems. I will only talk about three points. First, how to ensure that the original minimum wage level of \$28 per hour can

protect the living standard of workers. Very simple, we can make reference to the inflation rate. I have made reference to the inflation rates of the last two years and after adding the factor of inflation, the amount should be \$29.6. The minimum wage level can be round up to \$30, and when compared with \$28 two years ago, I think the level can ensure that the living standard of workers has not deteriorated.

The second point of consideration is the provisions of jobs for workers who can benefit from the minimum wage. There are two issues concerning the provision of jobs. First of all, middle-aged workers have been replaced by younger workers. This situation can be clearly seen. Many Members have also pointed out earlier that the security guards in many housing estates are obviously younger. Why is it so? It takes an hourly pay of \$28 to hire a worker. We may pay over \$30 to hire a younger worker, but as there is no increase, there is less ripple effect and hence the difference in pay is lessened. Young people may think that the work of a security guard is not too tiring and they are not required to run around, so they are willing to take up the job. For this reason, more and more young people work as security guards and building management staff. Therefore, we have to be very careful. If the minimum wage level rises too high and too quickly, it will entice some employees to switch jobs, leaving very little choice for the disadvantaged workers.

The second issue concerning employment is the overall unemployment rate. I agree that after the implementation of the minimum wage, the unemployment level has not risen. So we might as well raise the minimum wage level as high as possible until the unemployment rate rises to 5% or 6%. Let me tell you. We all know many grass-roots workers are employed by the retail industry in Hong Kong. Hong Kong's total retail sales in May 2011 registered a growth of 28% as compared to a year before, 29% in June and 29% in July. When did it fall to 24%? It was September last year. Then the successive growth rates were 23%, 23% and 23%. When did it fall to 15%? It was January this year. Then it fell again to 11% in June this year. Then in July and August, it fell to 4%. It was 4%. My fellow colleagues, the retail industry in Hong Kong used to enjoy a double digit growth but now this is no longer the case. By September and October, the growth curve may become flat, meaning there is no more growth. We look at what happened two years ago and say that

our unemployment rate is very low. Let me tell you, as revealed in the present situation, the current low unemployment rate may not remain for very long.

Who are the final stakeholders? They are the general public and their livelihood will be affected. I absolutely agree that the rising price of many commodities is not related to wage but to rent. I am in the fashion business and workers' wages have little impact on me. As regards our cost structure, the rent represents 30% of our turnover and workers' wages represent 10%. It can be seen that raising the wage to a percentage higher than 10% may not affect my survival. However, many enterprises do not need to pay rent. If wages are raised, the management fees and cleansing service charges of housing estates will also have to increase and every member of the public will have to bear this cost, which is higher than the inflation. If the minimum wage is to be raised this way, the living standard of the general public will certainly be lowered because the charges of many services are related to wages. As Mr Tommy CHEUNG has said, going to a Chinese restaurant for dim sum is a traditional cultural of the general public in Hong Kong. I have obtained some information from him and found that the operation costs of restaurants are in contrast to mine, where 30% of their cost is wages and over 10% is rent. Compared to workers' wages, the rent has a smaller impact on them. Do we want the prices of dim sum to rise continuously? Or do we want the number of food reduced when we go to Chinese restaurants in future? Please seriously ponder this. Therefore, I am against the original motion and all the amendments. Thank you.

MR CHAN CHI-CHUEN (in Cantonese): President, whenever the topic of pay rise is brought up, conflicts will certainly arise between employers and employees.

Actually, I do not want to entangle in the rate of minimum wage again today. Everyone can look at the wording of the original motion moved by "Brother Kee", which is, "this Council urges the Chief Executive to raise the minimum wage level to \$33 or above per hour". In fact, many colleagues are in favour of setting the minimum wage level at \$35 but why no one has amended this part of the original motion? That is because we prefer to put aside our differences and seek a common ground.

I remember at the press conference that we and Members from the pro-democracy camp held last time, we prepared two props signs, on which one was written "33" and the other "35". In the end, because some colleagues supported "33" and so we agreed to seek for the hourly pay of \$33 or above.

After listening to the speeches of many colleagues from the functional constituencies or those who are bosses, I find that the crux of problem is not the amount but rather whether we have the commitment. When they speak, they seem to be talking about something in the bad old days, that is, they are unwilling and unhappy about paying the minimum wage. Whenever the topic of minimum wage is discussed, they will take the chance to express their objection. Therefore, no matter whether the level is set at \$33, \$32 or \$31, I believe that the Members who voice their objections today will not support the minimum wage.

I hope that the bosses will stop citing examples that after the implementation of the minimum wage, eateries have to raise their prices, reduce the number of dumplings in a case and cut down the amount of rice in a bowl, and so on. Mr Tommy CHUENG said that no new restaurants have opened, he had attended fewer ribbon cutting ceremonies or many eateries had closed down. However, we should not blame the minimum wage for all these incidents.

We know very clearly that the culprit for the closure of eateries or their difficulties in operation is the rent. Rents of shops have increased by more than 10% or even doubled. Honourable colleagues can ask Yuk-man later how his beef noodle shop went from having a profit to end up in closure. Therefore, I hope that Members will not repeat what they said over a year ago and lay all the blame on the minimum wage. We all know the reason behind the food hike and increasing costs of all commodities.

Moreover, some colleagues commented that the increase of the minimum wage level from \$28 to \$33, an increase of near 18%, is too much. But why is it so? That is because the level was set too low last time. They also asked if the frequency of review is revised to "once every year", how they can afford an 18% increase in minimum wage every year. Do they have false reasoning in saying so? If reviews are conducted "once every year", will we ask for an increase of 18% every year? That is impossible because we have to pay our staff as well.

Many in favour of conducting review "once every two years" argue that if reviews are conducted once every two years, there would be more buffer time to protect workers in case of an economic downturn, so that they would not be employed as casual workers. Some even say that since the Minimum Wage Commission has to consider many factors, including the prospects forecast, inflation and unemployment and so on, there is no lagging behind.

I would like to tell you — I believe that all of you actually know, so do not pretend you do not know — the "review" does not necessarily bring about a pay rise. Take the current review for an example. There are people who do not want a pay rise. A review is in fact to effect a regular adjustment and it does not mean that it will bring about a significant increase in the minimum wage level every time it is conducted. The forecast of inflation, unemployment rate and so on can also be taken into consideration during the review if it is conducted every year. Conducting a review every year in the light of economic factors will not turn all jobs into casual jobs. On the contrary, if reviews are conducted every two years, on the one hand it will not be able to catch up with the impending economic changes, and on the other hand it will also create a tension between employers and employees in their wrestling over the wage level. Because both think that the interval between two reviews is long, whoever prevails can enjoy the benefit longer. However, if reviews are conducted every year, it may be relatively easier for both sides to negotiate the adjustment level and their relationship will be less strained. When the economy changes, the so-called "buffer period" will become an extended conflict period. Which side will benefit from the protection? We are yet to find out.

We will support the motion moved by "Brother Kee" today, that is, to raise the minimum wage level to \$33 or above per hour. But in fact, if you ask my opinion, I am in favour of \$35. Besides, we are also in favour of conducting reviews "once every year".

I so submit.

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

MISS CHAN YUEN-HAN (in Cantonese): President, this is a topic frequently discussed in this Council. In fact, as regards the situation in Hong Kong, the minimum wage, from non-existent in the past to its implementation, we should welcome it. Just now, some Members from the business sector queried why we still ask for an annual increase in the minimum wage level since the system had been established. In my view, if there is a shortage of manpower like the situation before 1997 instead of an ample supply like today, they will not have such a mindset and attitude.

With the reduction of economic elements in Hong Kong after the reunification, there are fewer employment opportunities and there a surplus of grass-roots workers. As it is now more difficult to find a job, workers are being exploited in terms of their wage. I still remember when the Government reformed the staffing establishment in hospitals in 2000, the work of the permanent Ward Aide had been contracted out. Employees whose work had been contract out were in a miserable state as it was difficult for them to find a stable job. On the other hand, as there was ample supply of workers to replace the existing staff, the management staff of the hospitals were arrogant and ferocious. As human beings, why should they treat other people in such a way just because they are the managers while others are wage earners?

Today, everyone talks about dignity. No matter what job that a worker holds, his dignity should be given due regard. Hence, I want to stress that no one likes to be exploited if they have a better alternative. If workers have certain bargaining power and there are sufficient economic elements to support them, they do not have to be in the present plight. Actually even with the current minimum wage level, it is hard enough to support oneself, but at least the present situation is not so bad as that after the reunification where the wage level dropped drastically. In the face of this situation, I believe that all people in society, including the business sector, the management or wage earners, want to find a way to help those people lead a more dignified life.

My fellow colleagues, we always say that there is presently a strong sense of public grievances. People do not trust the Government, neither do they trust certain people, especially those from the business sector. We have to think why the community harbours such grievances? What are the reasons? Is it possible to strike a balance so that everyone can live happier and with more dignity? I have left this Council for four years. Today, while I listen to Members' speeches

either in this Chamber or in office upstairs, sometimes I cannot but wonder why we are still discussing some basic problems. I presume that since the relevant system has been established, people would rationally discuss the increase rate for this year and whether there is a need to review the system after more than a year's implementation. It is the element that a healthy society should have.

When Mr Tommy CHEUNG spoke, he always went after Mr WONG Kwok-hing of the Hong Kong Federation of Trade Unions. Actually, we should ask ourselves honestly whether wage cost has made it difficult for operators to run their business. I always refute this comment. If there is a shortage of labour, no one would target at workers but will do everything to address their grievances, including promotion to retain talents. It is only because of the ample supply of workers that you would trample on their rights at will and say that their wages make it hard for you to run your business. Sometimes, I would also say some harsh words and tell them not to lay all the blame on workers because of their incompetence. Why do they not blame property owners who raise the rent of a shop premises from \$80,000 or \$100,000 to \$300,000 in one go? There is a big restaurant named Dragon King Restaurant opened by the "God of Cooks" close to Pitt Street, where the office of the trade union that I belong to situates. Originally the rent was \$180,000, but as a certain big fishball noodles operator set his eyes on that premises, the rent was raised to over \$300,000. Is that reasonable? The owner of Dragon King Restaurant, Mr WONG Wing-chi, once met me and told me he agreed with me that rent rather than wages was the biggest problem that affected the business operators. It is only because workers are in an unfavourable position that you can continue to trample on them.

I still want to bring up the second question: does man have dignity? Does physical labour have value? Has society reached the state where physical labour has become valueless? Have we degenerated to a slavery society that allows people to say whatever nonsense that they like? Sometimes the more I think about it, the angrier I get. A few years ago, grass-roots workers were all at a loss as to what to do, and I still remember very clearly the powerless and desperate look on their face. I want to ask the SAR Government and those against the implementation of the minimum wage if they want to provoke the grassroots into taking to the streets. Thanks to the public housing system which can still offer protection to people's livelihood, Hong Kong society can still remain stable; otherwise, I can only see the grievances of the grassroots every time I meet them. I truly hope that all my Honourable colleagues here would

discuss how to make work pay on the basis of the minimum wage system passed in the last legislative session; how to help enterprises strive for the common goal; and how to help one each other ride out the storm instead of constantly blaming workers who have no bargaining power.

Another problem that I want to talk about is the Government. Secretary Mathew CHEUNG, sometimes I really admire you. You always have a way to twist the wrong into something that seems to be right. Concerning the issue of reviewing "once every two years" which I have talked about many times, what are the reasons for reviewing only "once every two years"? He always skirts round on the wording. I have pointed out that all employees in the market, including civil servants and workers in other industries, have a pay rise once a year but why the minimum wage has to be reviewed once every two years? Of course the Secretary knows very well that this practice is to appease the commercial and industrial sectors, and that is why there is the requirement for reviews to be conducted every two years and that is to play with words. I would like to point out that Mr Frederick FUNG proposes this motion today but we intend to propose a Private Member's Bill to make amendments. Let me reiterate that it is a common practice of the community to have a pay rise once every year. As regards whether it lags behind or goes before the time, that can be discussed later but we should not go against the logic of the market in the first place.

I have been engaged in labour affairs for a few decades now but I have never seen such helplessness of the grassroots before the establishment of the minimum wage; nor have I seen the working class, men and women of whatever age, suffering from such hardships in the market. At the time when the minimum wage was finally implemented, I was no longer a Member of this Council, but I will never forget the joy on their face. However, all the benefits gained will soon be offset by inflation. Why can we not give them a better treatment, for example a minimum wage of \$33 that we are now talking about?

I wish to emphasize here that the Minimum Wage Commission has not yet announced the final recommendation. The Hong Kong Federation of Trade Unions proposes that the minimum wage level be set at \$33 per hour. We are not acquisitive but rather the labour sector had compromised last time when the level of minimum wage was set in order to make the establishment of the minimum wage system a success. I hope that the Government can remain

neutral this time. If the Government cannot say something fair, I think there is something wrong with you, Secretary.

Thank you President.

DR KENNETH CHAN (in Cantonese): President, concerning the actual contribution brought by the minimum wage to Hong Kong, from the experience I get after attending the meetings held in different districts, I can see that many non-government organizations and wage earners have responded to it positively and happily. To them, this is actually an acknowledgment, an acknowledgment that they have expected for so long, which is, as mentioned by many Members, their dignity. In their view, since they have, like most other people who have been studying, working hard, striving to make progress, doing their best to strive forward and struggling to provide for their families, contributed to society through their work and their efforts, does society owe them an acknowledgment?

Before the enactment of the Minimum Wage Ordinance, the Government had launched a rather interesting movement known as the Wage Protection Movement. It had put up many advertisements advocating the so-called "win-win" situation. Finally it became empty talks. People who once had hopes were disappointed, and their vision came to a naught once again. Therefore, the Hong Kong Government had, after years of denial, finally admitted that there was a need to implement the minimum wage through legislation. It meant that the whole Hong Kong society understood that they needed to take this step, to acknowledge the contribution of the working class in Hong Kong, and also to lower appropriately the number of poor people.

I have attended many seminars and district activities recently and I learned that the number of poor people in Hong Kong has dropped and many families that have benefited from the protection provided by the legislation on minimum wage begin to see hope and light in their lives. However, this is only a start because we may need to meet the challenges of making the minimum hourly pay better meet the practical needs. Many wage earners in Hong Kong say that they "go to work without knowing when they can finish work". They work long hours in order to give their family food and shelter and they are grateful for setting the minimum wage rate at \$28 per hour. However, in the face of high inflation and

various challenges of daily lives, especially in the present day — as this Council has discussed this morning — it is hard to find a place that sells cheap meat and vegetables. With the property hegemony permeating into every corner of our community, it is hard for people to make ends meet. The minimum wage has, of course, not yet taken into account the overall family needs. Some organizations also point out that not only a worker's personal wage has to be taken into consideration, but also the gross income of the whole family and whether the money made by one person is sufficient to support the whole family of several generations. Therefore, this issue is a very real social problem. It involves the policy on wages, how Hong Kong deals with its population policy, as well as the demographic structure and development. How do we help everyone gain a sense of content, a vision and a direction about their life?

Therefore, since its establishment, the Civic Party has always supported the legislation for the minimum wage. We believe that we need to be fair to everyone who works and to give a chance to everyone and acknowledge their efforts, we also agree that the hourly rate should be adjusted upwards because \$28 per hour can no longer meet people's daily needs today. We hope that this rate will be reviewed as soon as possible.

My fellow colleagues, today's motion and the amendments to the motion is not something new as those views had been brought up in the course of the debate on the Minimum Wage Ordinance and the legislation process. The idea of reviewing "once every year" was also brought up. Is there a better way to determine the minimum wage level? Should the Legislative Council participate in the decision making process? In fact, in many places of the world, the legislation on the minimum wage will also be deliberated in the legislature in the final stage. In order to seek a basis that is acceptable to everyone, all sectors of society need to work together in negotiation and deliberation, and the Government's participation in the process is certainly needed. However, it is a shame that given the composition of this Council and the presence of the separate voting system and functional constituencies, very often we do not have faith in the discussions of this Council. However, one day when there is an elected Council returned by genuine universal suffrage with all voters on equal footing, it will have the legitimacy and credibility and can play the role as gatekeeper for the general public and for wage earners. That is a very important development and we must continue to fight for that goal.

Of course, with so many elected Members taking the pulse of society through their daily work, their contact with various communities and discussions with various bodies, I do not believe that the Bureau or the Government would have a better grasp and understanding of public sentiments than us. It is no doubt that we can obtain some macro statistics in the area of Central or Admiralty where we work, but we still need to go to the frontline and visit every community and every work place to gather the views of wage earners.

Another very important point about today's amendment concerns the employees with disabilities. Frankly, the provisions in this respect should be repealed because that will create a labelling effect and discrimination, which is feared by many people, not only employers but wage earners as well. We have to consider carefully if there is a better way to deal with them. Should they be provided with subsidies to make up for the shortfall in wage? If we can help people with disabilities who need to be taken care of so that they can fully engaged in the employment market and make full use of their skills, will that be conducive to our achieving a more equal, tolerant and harmonious society?

Therefore, regarding the whole debate on minimum wage, we see that the subject on the direction of reform has been brought back to this Council for discussion today. I hope that when the Secretary makes a concluding speech on this subject later on, he will give us some concrete and positive message. It is a good thing that some advancements have been made. How can we turn it into an even better thing, it will depend on whether we are willing to take these few more steps.

President, I so submit.

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

MR ALBERT CHAN (in Cantonese): President, whenever we discuss labour rights and interests, especially workers' wages, Members from the business sector and big bosses in this Chamber have all exposed their ferocious and ugly faces. They only care about their wealth and glory but blatantly ignore the life and death and hardships of the toiling masses. We are now talking about raising the minimum wage rate from \$28 to \$33 per hour. Let us compare this rate to the

salary of Secretary Mathew CHEUNG. His monthly salary is about \$280,000 while the workers' hourly pay is \$28. Let us take \$280,000 as his monthly pay, his average hourly pay will be roughly \$1,400. In respect of the big bosses in this Chamber, with Dr David LI and Mr Timothy FOK not in the group, the assets of the remaining Members of this Council will decrease significantly. But even with the decrease, I believe that comparing with the average population in Hong Kong, the value of the assets of Members in this Chamber is still much higher. I believe that the income per minute of many Members here, rather than per hour, still far exceeds \$28 or \$33.

Now that a Member proposes to raise the minimum wage rate of the toiling masses in Hong Kong to \$33 per hour, it is like their lives are at stake. Therefore, these big bosses have all exposed their ferocious and ugly faces before us. I would like to ask the people of Hong Kong to take a good look at the ugly faces of those Members representing the functional constituencies in this Council, those Members have exploited the rights and interests of Hong Kong people; they are vampires. Take a good look at them.

President, a quorum is not present. Please do a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr Albert CHAN, please continue.

MR ALBERT CHAN (in Cantonese): President, just take a look at the statistics and you will see the relation between wages and the economy. Basically the impact of inflation and rent on the economy exceeds that of wages. Many Members in this Council engage in speculation of properties or own massive properties and stocks. It is even more so for Members of the Executive Council. The "King of Properties" in the Executive Council can earn hundreds of thousands of dollars just by reselling one property, buddy.

Take a look at the increase in rent. Comparing the figures in May 2011 with those in August 2012, we can see that in just slightly over a year, the increase rate was 10.5% in Hong Kong Island, 3.5% in Kowloon and 5.5% in the New Territories. In respect of food, the cost of eating out has increased 7%, the increase rate for pork is 5% and vegetables 10%. Some said that the catering industry suffers badly and many eateries have gone out of business; but I can tell you, the reason for many eateries going out of business or ceasing operation, including the beef noodle shop of our great leader of the People Power, Mr WONG Yuk-man, is rent hike. No matter how powerful you are in politics, once you engage in economic activities, everything will be controlled by the property owners and they will raise the rent to such a level that you cannot afford to continue your operation. The Fairwood Fast Food Restaurant is just amazing. At a time when many restaurants have to close down, its stock prices in October 2012 recorded an increase of 51% as compared to that in May 2011.

Concerning the overall economic structure of Hong Kong, due to the inflation caused by the increase in rent, food prices and transportation costs, the general public suffer miserably. To pay a few more dollars for a catty of vegetable is nothing to the rich Members among us. What is the big deal about the difference in prices for a catty of pork? Their rental income exceeds their rental expenditure, right? At present, the Honourable Members from the labour sector live in the Mid Levels.

Therefore, President, regarding the overall economic structure of Hong Kong, since wage earners and the toiling masses in Hong Kong have no right to collective bargaining and no power to "arm wrestle" with employers, they can only depend on Members to voice out their aspirations in this Council. However, the functional constituencies in this Council are dominated by the commercial and industrial sectors, while the so-called representatives of the labour sector mostly belong to the pro-establishment camp and royalists, and as soon as the Liaison Office of the Central People's Government in HKSAR (Liaison Office) presses a button, they all have to kneel down and the rights and interests of the toiling masses will all be forgotten. Under the political control, politics surpasses everything and the interests of the working class are completely obliterated by the Liaison Office. That is the political structure of Hong Kong.

Hence, for any issues concerning labour rights and interests that are brought to this Chamber, 99.99% of them will lose out, because first the labour

sector has not done enough to protect workers, and second, structurally speaking, this Council is dominated by functional constituencies and big capitalists. The Government is dominated by big capitalists, functional constituencies and small-circle election. Among the 1 200 persons who elected the Chief Executive, most of them are controlled by property developers, banks and financial hegemony. This political and economic structure has become completely tilted with only us, who sometimes scold them a little, to counter balance their dominance. But whenever we speak, the royalists and most Members from the commercial and industrial sectors will disappear. It is only when the President indicates the lack of a quorum and orders the bell to be rung to summon them will a couple of them return, but most of these Members will remain absent. Whenever the issue involves the stance of class interests, this Council will be tilted and the general public will continue to suffer.

In the past 10 or 20 years, Hong Kong has enjoyed a robust economy but that only benefits the big capitalists, plutocracy, financial hegemony and property hegemony, as well as the so-called professionals and those with power and influence in politics who follow the financial hegemony and property hegemony to reap advantages. But the plight of members of the public have aggravated. Therefore, President, in the end the working class, the toiling masses, have to stand up to defend themselves, to besiege the Central Government Offices to fight against this system; otherwise, these people will only continue to be bullied by these unscrupulous capitalists in this Council and their basic rights and interests will still be ignored.

Therefore, if workers do not rise up to defend themselves, their rights and interests will continue to be exploited and ignored. President, that is why I call on the general public, the toiling masses in Hong Kong to besiege the Government Offices and the Legislative Council Complex whenever they have problems until the Government backs down.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, many people say that the introduction of the minimum wage is a calamity and to raise the wage level two years later is even a bigger disaster. These remarks are really absurd.

President, please take a look. This is a verbatim record of their speeches. Let me wind up these teeth first. (*Sound of winding up the spring and the movement of the spring*) Just like that, all empty talks

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, please continue.

MR LEUNG KWOK-HUNG (in Cantonese): It is just like that — "only empty talks left". First of all I would like to ask my intelligent colleagues to enlighten me. Since you are so fond of the statistics, do you find the problem of wealth disparity in Hong Kong deteriorating or easing? Our problem of wealth disparity should rank the most serious in the world with the Gini Coefficient reaching (*Sound of winding up the spring and the movement of the spring*) They are exactly like this.

PRESIDENT (in Cantonese): Mr WONG Yuk-man, will you please stop that device from making noise.

MR LEUNG KWOK-HUNG (in Cantonese): The Gini Coefficient shows that the wealth gap gets increasingly widened. Who are at the bottom? They are those who need the protection provided by the minimum wage, or those who cannot benefit from the protection offered by the minimum wage and end up falling into the social security net because people presume that they have income. In view of that, how can you say that those people who finally receive the minimum protection after suffering for so long have caused problems to the economy? If so, that will be the end of the world because it will take one third of the people to suffer in order to allow 1% of the people to remain rich.

President, what kind of threat is now harassing our economy? Everyone knows that it is created by the pegging of Hong Kong dollars with the US dollars for no reasons and the rising exchange rate of Renminbi against the US dollars. When the United States implemented the quantitative easing policy, Renminbi followed suit and RMB 4,000 billion yuan were printed. As a result, large amount of Renminbi flow into Hong Kong to push up the inflation. Why does the Government not dare to say anything and request to end the pegging? For

those of you who belong to the capitalist class, you are so good at mathematics, why do you not request for ending the pegging, but instead shift the blame onto the workers? Do you have the guts to question the Central Government if it is taking advantage of us by exchanging our money with their Renminbi, some "rubbish money"? I am not joking. Like the US dollar, the Hong Kong dollar is a currency backed by exchange funds and trust funds. Do you have the guts to say so? No, you do not. You only lay the blame on workers. This is the first point.

Second, to solve the problems of inflation and price hikes thus resulted, LEUNG Chun-ying introduced the stamp duty but it is of no avail because what they have is money. They can speculate on shop premises instead, or stocks, or even speculate on beef and pork. They can stock up large quantities of such commodities from the Mainland through Ng Fung Hong and then reap profits by raising the prices. Buddy, you do not denounce such behaviour. Because of high rent, expensive foods and daily commodities, the general public can hardly meet the basic needs in their daily lives. The general public have to pay a high price for clothing, food, accommodation and transport, and even for a newspaper or a small packet of tissue, yet you accuse them of being overpaid and bringing down the local economy. Are you sick in making such accusation?

Let me reiterate, if you cannot make your business viable, go to hell! There are many business operators in Hong Kong, each one of them has kept an account book and they should know whether it is the sky-high rents or the rising prices of the imported goods that poses difficulties in their business operation. You know too well that workers are the end consumers and what bargaining power do they have? Their only chance to bargain is to go on strike and temporarily suspend the employment relation, so as to let employers know the grave consequences of not having workers.

What is a minimum wage? A minimum wage is for the protection of the underprivileged workers, to adequately safeguard the general public who have been suppressed and exploited by the 1% of people who have reaped huge profits in the market and some 10% of people who have become an appendage of the 1% bigwigs. When the minimum wage rate was initially proposed at \$28 per hour, I suggested that the rate should be \$35 per hour and vetoed the \$28-hour proposal. At that time, we were not bold enough. If we took action then like what we had done to negative LEUNG Chun-ying's motion, the Government would have to

negotiate with us. If \$28 was not viable, then set it at \$31, and then we can further demand for \$35.

If reviews are conducted "once every two years", the increase will be accumulated and then people will complain about the huge increase rate. What are those people? Buddy, the workers have suffered a loss for a year and what is wrong if they ask for an increase? President, this Council is totally unreasonable. I have never expected it to be so shameless. Among the 3 million-odd wage earners, there are at least 0.6 or 0.7 million poor workers. Someone in this Council have accused them of dragging the economy down. Are these Members terminally ill, buddy? Are they outrageous? Let me ask you: is the minimum wage the culprit for the current problem of extreme wealth disparity in Hong Kong? Mathew CHEUNG, you must answer this question.

Look at Franklin LAM Fan-keung. He actually "pours muck"². "Pouring muck" is his strength. He is raking muck on himself and on the Government. While Franklin LAM is raking muck, what about the Government? The Government appointed him to handle the problem about the property market but he handled his own properties first. "Ah Chung" who jumped the gun in buying a car worth \$370,000 ended his career in the Government while this Franklin LAM continues to "pour muck" and "rake muck" every day. When LEUNG Chun-ying comes here tomorrow, I will give him a pile of muck because he likes "Pour Muck" LAM and he is insulting the people of Hong Kong. A member of his cabinet blatantly lies Is he not blatantly lying, Buddy?(*The buzzer sounded*) But you do not have to stop me. I have no time to scold this inept official

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese): He is Franklin LAM Fan-keung, "pouring muck" is his strength.

² The Chinese name of Franklin LAM is LAM Fan-keung, Lam Fan sound similar to "pour muck" in Cantonese.

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

MR WONG YUK-MAN (in Cantonese): President, since the implementation of the minimum wage on 1 May last year, the consumer market in Hong Kong has not gone downhill, the underprivileged community has not encountered the so-called massive layoffs, neither has the unemployment rate soared. The actual situation has differed greatly from the predictions of the rightist economists and capitalists. According to the statistics of the Census and Statistics Department, as at the end of last year, the unemployment rate in Hong Kong was 3.3% and underemployment rate was only 1.4%. As I always see recruitment notices posted in shops as I walk along the road, which well proves that the minimum wage is not a scourge. If the rightist scholars and capitalists were not over-worried, they were benighted, or even had evil intentions. Last week, Dr Ferdinand CHEUNG moved a motion on the poverty problem in Hong Kong and he quoted findings of the Hong Kong Council of Social Service. According to the statistics, the number of working-poor households has fallen from about 0.2 million to 185 000, the poverty rate has dropped 1.8% for young people, 0.7% for adults and 1.2% for middle-aged people. In view of that, I can actually say that the effect of the minimum wage on alleviating poverty is well proven, am I right?

Mr Donald TSANG, the last Chief Executive, had once said, "Because Hong Kong is a capitalist society, the problem of wealth disparity cannot be solved easily." This reminds me of Mencius' words, "The people are not loved and protected, because kindness is not employed. Therefore your Majesty's not exercising the royal sway, is because you do not do it, not because you are not able to do it."³ The meaning is quite simple. Mencius told Qi Xuan Wang that the people could not live in peace and enjoy their work because their ruler was not kind to them and did not exercise the royal sway. In other words, the government did not practice benevolent rule. Therefore, the ruler did not do this not because he was unable but because he was unwilling to. This is where the reason lies.

To raise the minimum wage rate from \$28 to \$30 per hour is like robbing them of all their fortune, right? This Government Mathew CHEUNG, it is

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you again. When we discussed the minimum wage two years ago, I delivered a speech for 30 minutes. Some of our supporters posted a short video on YouTube. You can watch it on the Internet. The hit rate for the portal has reached 0.1 million and all the comments support my point of view. We took the opportunity of legislating for the minimum wage to explicate our reasoning but you were playing with words and said that you would review it "once every two years". Actually, to review "once every two years" could mean to conduct a review within two years, so it could also mean to review "once every year". In the end, you only proposed to review "once every two years". I already pointed out at the beginning that you were best at this. Therefore, the ruler "not exercising the royal sway, is because he does not do it, not because he is not able to do it." This is what the Government is at present.

Mr Michael TIEN just said that he did not know what we were up to. You were not in this Council last year and the year before last, right? You asked us what we were up to. We are not against you. How much do you pay for the rents of your chain stores? Therefore, there is nothing to say. We belong to different classes, right? I belong to the middle class. I am not a proletariat but I fight for the rights of the proletariat. Right? How can I fight with you Of course "everyone has a trumpet and plays their own tune", but the problem is we have to be reasonable no matter what. You accused us of being unreasonable. Just give me some reasons to back up your accusation. This problem always involves the arguments of the leftists and the rightists, it also depends on the objective environment. I have paid a visit to Australia and New Zealand recently. The minimum wage there is HK\$120 per hour. Is it possible that the GDP of Hong Kong is only one quarter of that of Australia and New Zealand? Is it possible that inflation in Hong Kong is way different from theirs? Sometimes I really cannot read from my script because I am very angry after hearing your speeches. Right? We have made it very clear. Right? Raise the rate from \$28 to \$30. It is downright shameless. I cannot help but say so.

When the Minimum Wage Commission (MWC) was first established, I had already pointed out that the composition of MWC was basically unbalanced because the Government appointed rightist scholars to represent the academics, only three persons were appointed to represent the labour sector, and there were three capitalists and government representatives. Among the representatives, only LAU Chin-shek, KWONG Chi-kin and LEE Kai-ming represent the labour sector while the others are either rightist scholars, government representatives or

capitalists. How can the labour sector have a say? By raising the rate from \$28 to \$30, we only get an increase of a little over 7%. And the authorities think that it is a big favour. Besides, the increase is for two years, meaning that it is only a little over 3% for one year, which is even lower than the inflation rate.

I do not want to call you unscrupulous and vampires as Mr Albert CHAN did, because both of us are businessmen, right? I even fell out with my wife because of the minimum wage. She complained that the rent was already so high and now we even demanded an increase of the minimum wage rate to \$33 per hour, and that was just like asking her to close the shop. I told her to close it. We would have to close it one way or another, right? We could not help it. Some may say in future that WONG Yuk-man fights for the minimum wage and ends up driving his wife's shop out of business. However, even if it turns out to be so, what other options do I have? One has to take into account the general trend when putting in place the minimum wage. Under the present circumstances of Hong Kong, how can you have the face to propose an hourly rate of \$30? We are only demanding for \$33 now. "Long Hair" has said just now that we initially demanded for \$35. Do you remember? I considered \$33 too low, I mean the minimum wage rate to be set initially. Now we are asking for an increase from \$28 to \$33 per hour but you decide to raise it from \$28 to \$30. That is why "Ah Kee" moves this motion. His aim is not to cause another row in this Council again. In fact, as CHAN Yuan-han has said, these were all simple truths, as simple as A, B and C. One can understand without any arguments. It is only that we are in the minority. That is all.

Moreover, President, you should also remember that when we first debated the legislation on the minimum wage, we proposed that the Legislative Council should also have a say but in the end it was not given the right. Can you not say that the Legislative Council is worthless? We have no control over the minimum wage and it is decided by the Executive Council and the Chief Executive instead. The last Chief Executive committed bribery and dereliction of duty while the incumbent Chief Executive is incompetent. Besides, all Members of the Executive Council are "crap" but the Legislative Council has no right to make decisions. Then you say \$30 and the decision is made, right?(*The buzzer sounded*)

MR LEUNG KWOK-HUNG (in Cantonese): Franklin LAM Fan-keung.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, I remind you once again not to yell in your seat; otherwise I will order you to leave the Chamber.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Frederick FUNG, you can now speak on the three amendments. The time limit is five minutes.

MR FREDERICK FUNG (in Cantonese): President, I agree to the amendment proposed by Ms Cyd HO. At present, with regard to the meetings of the Minimum Wage Commission (MWC), we generally think that their discussions are objective, supported by statistics and guided by certain principles, and that the MWC will provide us with relevant information. Hence, we should endorse the rate recommended by the MWC. However, is it true? To this day, I still do not know what they had discussed. To this day, I still do not know what statistics they have. To this day, I still do not know the formula adopted by them to come up with an hourly rate of \$30. How many people have ever asked to get such information, or heard about it, or read about it?

If you choose to believe, you have to believe in this group of people. From time to time, they leaked some information to the press. While the labour sector demanded the rate of \$33 per hour, the business sector insisted on maintaining the rate of \$28; after a long fight, the two parties unwillingly settle at the rate of \$30. However, what statistics were used when the rate of \$28 was first proposed? Similarly, what statistics was used when proposing the rate of \$33? Why do they finally settle at the rate of \$30? Is it just a random choice? Or have they set the rate arbitrarily? When everything is unknown to us, how can you ask me to believe that an objective and evidence-based approach has been adopted? Therefore, in my view, discussions held at the Legislative Council are most transparent, we know exactly the basis for making the decision,

and the public will judge whether individual members or political parties have acted fairly. The current practice is not fair at all since the final decision rests with the Chief Executive, who will not explain the grounds of his decision. In view of this, I support the amendment of Ms Cyd HO.

Next, President, the amendment of Dr Fernando CHEUNG. He has pointed out that as wages of employees with disabilities will be discounted on the basis of their productivity, they are not entitled to the full amount of minimum wage. The Legislative Council Subcommittee on Poverty Alleviation had conducted duty visits to Korea in the two preceding terms of the Legislative Council to learn about their experience in poverty alleviation and their social enterprises. How do they take care of people with disabilities? Based on the results of medical checks, they have drawn three lines for people with disabilities: the first line is drawn at 33%, indicating a loss of one third of abilities due to disabilities; the second line is drawn at 66%, indicating a loss of two thirds of abilities due to disabilities; and the third line is drawn for those who are completely disabled. For people with disabilities who have lost one third or two thirds of their abilities, the government encourages social enterprises to employ them. If such employment has brought deficits to the social enterprises, the government will compensate by paying the social enterprises one third or two thirds of the minimum wage, so as to make up the shortfall. In other words, if a social enterprise hires a disabled employee who has lost one third of his abilities, it only has to pay the disabled employee two thirds of the minimum wage (with one third of minimum wage discounted). However the social enterprise pays the disabled employee the full amount of minimum wage, including one third of minimum wage discounted, and if the social enterprise records a deficit because of this arrangement, the government will compensate the social enterprise. In this way, disabled employees' wages also meet the minimum wage requirement.

Another practice adopted by Korea is that the government will provide tax concessions to companies which employ people with disabilities. Korea has a lower gross national income than Hong Kong, if Korea can make it, why can't we?

President, I am very sad that there are still more than 200 000 working poor in Hong Kong. They work eight or 10 hours a day diligently, how come they still remain poor after working a day, a month and a year; and yet they are not even eligible to apply for the Comprehensive Social Security Assistance, is it

fair? They have been working half of their lifetime but their income is still insufficient to support their families. Is it fair? They have been working their whole life but they still cannot give their children a better education or feed their families. Is it fair?

President, before LEUNG Chun-ying was elected the Chief Executive, he had once made the following remark: according to the statistics of the Census and Statistics Department, the wages of the grassroots had failed to catch up with the inflation, and the wages of 30% of our working population were declining instead of increasing; therefore, the living pressure of the grassroots was intensifying. LEUNG Chun-ying, before you were elected the Chief Executive, you had once made this remark. Now, you are the Chief Executive. Please assess the rate of \$30 by your aforesaid remark. Before the election, these figures were clearly mentioned by you and you have written them down. Have you changed your views after you have become the Chief Executive? Have you taken these figures lightly after you have become the Chief Executive? Thank you, President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, once again, I would like to thank Mr Frederick FUNG for moving the motion on the adjustment of the minimum wage level today; Ms Cyd HO, Dr Fernando CHEUNG and Mr CHEUNG Kwok-che for proposing amendments; and the 28 Members for voicing valuable opinions in the past four hours. Now, I would like to respond to some key points.

First of all, I would like to speak on the statutory minimum wage (SMW) rate. As we all know, Hong Kong is a highly externally-oriented economy. Therefore, the elasticity of wages and prices is crucial to maintaining Hong Kong's competitiveness and capacity in resisting external forces. What I have to highlight here is that the objective of the Minimum Wage Ordinance (MWO) is to set the lowest wage level to forestall excessively low wages, and at the same time ensure that the flexibility of the local labour market and the competitiveness of our economy will not be seriously impaired. Meanwhile, we do not want to see the introduction of the minimum wage has a significant adverse impact on the employment of the disadvantaged workers. In fact, some employers have now offered their existing staff and new recruits with a wage higher than the minimum

wage after taking into account their actual operational needs and the market conditions.

In reviewing the SMW rate, the Minimum Wage Commission (MWC) needs to maintain an appropriate balance between the objectives of forestalling excessively low wages and minimizing the loss of low-paid jobs while sustaining Hong Kong's economic growth and competitiveness.

The MWC, before making its recommendation on minimum wage upon the request of the Chief Executive, has made reference to a basket of indicators which reflect the latest socio-economic and employment situation. It has also undertaken detailed analyses on wage distribution data and findings of other surveys, and conducted a comprehensive assessment of the impact of the SMW rate to take account of the changing social, employment and economic environment in an effective and timely manner. Through consultation, the MWC has also grasped the effects of the SMW rate on various sectors of society and their related views.

Some Members queried that there was a serious time lag as the minimum wage of \$28 per hour was based on the statistics in the second quarter of 2009. This is a serious misconception and I had already clarified this point last Wednesday (that is, 24 October) in my reply to Mr KWOK Wai-keung's oral question. Here, I would like to restate that the Provisional Minimum Wage Commission did not only refer to the statistics for wages in the second quarter of 2009. It had also taken on board the Gross Domestic Product and inflation forecasts for 2010, as well as the then latest statistics for wages, employment and various business operations, particularly those for the latest change in wages and employment earnings, in an attempt to address the time lag.

Similarly, in the MWC's review of the minimum wage rate, it has not only analysed the wage distribution data in the Annual Earnings and Hours Survey, but also referred to a basket of indicators which reflect the latest socio-economic and employment situation. These indicators include some of the latest indicators which are disclosed more frequently, such as the latest domestic economic forecast, inflation, labour market conditions and unemployment rate. They allow the MWC to keep pace with the latest conditions and prospects of our economy and labour market.

As the MWC has reached a consensus on the recommended rate of SMW, the Government will examine and consider its recommendation carefully and try to make a decision on the SMW rate as soon as possible. Under the MWO, the Chief Executive in Council, after considering the recommendation of the MWC, may adopt the negative vetting procedure and publish a notice in the Gazette to specify the SMW rate. If the Legislative Council does not agree with the Government's proposal and vote it down, the proposed rate and its effective date will become void.

In my opening speech, I have stated that the community has diverse views on the SMW rate. However, as minimum wage has widespread and profound impacts on local economy and employment, we must adopt an evidence-based approach to setting the minimum wage level, and at the same time, strike a right balance. Therefore, the MWO provides that the Legislative Council may approve or revoke, but not amend, the proposed SMW rate.

Now, I would like to talk about the review cycle of the SMW rate. It is a pragmatic arrangement for the MWO to provide that the SMW rate will at least be reviewed once in every two years. By adopting this cycle, we can meet three important needs: first, to establish a rule for the review; second, to protect employees' interests; and third, to give flexibility. It is good to the community, employers and employees.

As the MWO provides that the minimum wage rate must at least be reviewed once in every two years, the review cycle can by no means be extended to more than two years. However, it leaves the flexibility for conducting a review at an earlier time when necessary. If we set a rigid rule requiring the review to be conducted annually, the labour market in Hong Kong will lose its flexibility, thereby prolonging the time taken by Hong Kong to respond to external forces. Over the last decade, Hong Kong's economy has experienced four downturns, namely the Asian financial crisis in 1997, the bursting of the Internet bubble in 2001, the outbreak of SARS in 2003 and the financial tsunami in 2008. In each of these crises, the flexibility of the labour market had played a role in facilitating the rapid rebound of Hong Kong's economy. A rigid rule which requires the minimum wage rate to be reviewed "once every year" will greatly hinder the labour market from making self-adjustment. Employers will also find it hard to estimate the emolument costs in preparing service and business contracts, hence causing considerable difficulties to business operation.

On the other hand, employers who want to maintain their flexibility in controlling labour costs may tend to offer short-term employment contracts and replace their permanent staff with casual workers. It will give rise to fragmented employment, causing undesirable impact on employment.

The SMW rate is determined on the basis of an evidence-based approach. If all of the statistics show that it is necessary to review the rate of minimum wage, we may review it in less than two years. On the contrary, when the economy declines and the wage level is subject to downward adjustment, the current arrangement allows the MWC to have more time to collect data and make its recommendation after thorough consideration. For many places with the SMW, such as the United Kingdom, Ireland, the United States and Canada (including British Columbia and Ontario), the review cycle has not been specified in the legislation to allow flexibility arrangement to be made.

As a matter of fact, the SMW has just been introduced in Hong Kong for a short time and its implications have not been fully revealed. We must be careful in considering whether the review cycle should be changed in such a short period of time.

The MWC, chaired by a Senior Counsel in private practice, is comprised of three members from the labour sector, three from the business community, three from the academia and three from the Government. This composition allows the MWC to take into full consideration the implications of the SMW rate on employers, employees, society, economy and employment.

In appointing members of the MWC, the Government adheres to the principle of appointing the right persons to cater for the needs of the MWC. All suitable candidates with in-depth knowledge about the relevant sectors will be considered. The chairperson and the non-official members of the MWC are all appointed on a personal basis instead of being nominated by individual bodies so that the MWC can take into account the opinions of different sectors in an objective, independent, rational and comprehensive manner. Its members will then determine and propose jointly a suitable minimum wage rate in the overall interest of Hong Kong.

In respect of disabled employees, the community generally believes that the promotion of employment of persons with disabilities should be oriented to

the enhancement of their abilities and development of their talents and potential. Meanwhile, the collaboration with various sectors of society will create an environment which allows them to enjoy equal employment opportunities. This will facilitate their full integration into society.

We believe that we should help persons with disabilities find a suitable job and make a earning based on their abilities. If they are employed or receive a wage subsidy simply because they are disabled, they may be regarded as a burden to society, making it difficult for them to gain the acceptance of their colleagues, and integrate into society. If persons with disabilities are recipients of the Comprehensive Social Security Assistance (CSSA), they and their eligible family members are already provided with a safety net to meet their basic needs in daily life. For disabled employees earning an income, if the financial condition of their family allows them to receive CSSA, the Government will still provide them with CSSA payment to make up the shortfall in meeting the recognized needs. For those who fall outside the CSSA net, irrespective of whether they are persons with disabilities or people belonging to some other groups, at this moment the Government has no intention to provide them with a regular wage subsidy. However, we will continue to take practicable measures, including introducing time-limited and targeted employment support or subsidy schemes, so as to provide the unemployed with proper assistance to encourage them to secure and sustain employment.

The MWO establishes that disabled employees and able-bodied employees are similarly protected by the SMW. Therefore, disabled employees are also entitled to wages at not lower than the SMW rate. Taking account of the possible employment difficulties encountered by some persons with disabilities, the MWO has stipulated a special arrangement to safeguard their employment through a productivity assessment.

To prevent dampening employers' incentive in employing persons with disabilities under the SMW regime, the Government allows employers who dismiss persons with disabilities based on their productivity assessment results to be exempted from the Disability Discrimination Ordinance (DDO). However, I must emphasize that this exemption only applies to dismissal on the basis of productivity assessment results but not other situations. If an employee is dismissed for the reason of disability but not for failing to meet the original job

requirements of his job, the MWO does not prohibit the employee from making claims against his employer under the DDO.

President, the implementation of the SMW regime in Hong Kong was a consensus reached by the community after years of discussion. When we legislated for the minimum wage, we had already considered the issues involved in today's motion comprehensively, carefully and in detail. All the provisions in the MWO were passed by the previous Legislative Council after in-depth discussions and detailed scrutiny.

Hong Kong has only implemented the minimum wage for one and a half years and has not yet acquired sufficient experience. We will keep a close eye on the implementation of the minimum wage and make an objective assessment on the impacts brought by the SMW to accumulate operational experience. It is not the right time to make any hasty changes in this regime now. Instead, the Government's present task is to review the MWC's report carefully and consider the SMW rate recommended by the MWC with unanimous consensus. We will make our decision as soon as possible.

President, I so submit. Thank you.

PRESIDENT (in Cantonese): Ms Cyd HO, you may now move the amendment to the motion.

MS CYD HO (in Cantonese): President, I move that Mr Frederick FUNG's motion be amended.

Ms Cyd HO moved the following amendment: (Translation)

"To delete 'and' after 'per hour,'; and to add ', and repeal section 16(4) of the Minimum Wage Ordinance, so that the Legislature has the power to amend the notice on a prescribed minimum hourly wage rate and its effective date' immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Cyd HO to Mr Frederick FUNG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Ms Cyd HO rose to claim a division.

PRESIDENT (in Cantonese): Ms Cyd HO has claimed a division. The division bell will ring for five minutes.

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

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

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG and Mr Dennis KWOK voted for the amendment.

Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr NG Leung-sing, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr Steven HO, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr POON Siu-ping and Mr TANG Ka-piu abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Dr Priscilla LEUNG, Mrs Regina IP, Mr Michael TIEN and Mr James TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr WONG Kwok-kin, Mr Paul TSE, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 31 were present, eight were in favour of the amendment, 15 against it and eight abstained; while among the Members returned by geographical constituencies through direct elections, 33 were present, 17 were in

favour of the amendment, four against it and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Raising the minimum wage level to \$33 or above per hour" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew LEUNG be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on " Raising the minimum wage level to \$33 or above per hour" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Dr Fernando CHEUNG, you may move your amendment.

DR FERNANDO CHEUNG (in Cantonese): President, I move that Mr Frederick FUNG's motion be amended.

Dr Fernando CHEUNG moved the following amendment: (Translation)

"To add "; when raising the minimum wage level, the Government should establish a wage subsidy system under which the Government provides subsidies to make up for the shortfalls in minimum wage for employees with disabilities, so as to enable employees with disabilities to enjoy the same wage as able-bodied people; after raising the minimum wage level, persons with disabilities who have undergone the productivity assessment under Schedule 2 to the Minimum Wage Ordinance (Cap. 608) may still be dismissed due to the corresponding wage increases, the Government should therefore amend Schedule 5 to the Disability Discrimination Ordinance to stipulate that employers who dismiss persons with disabilities on the basis of their productivity assessment results must be bound by that Ordinance" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Fernando CHEUNG to Mr Frederick FUNG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Dr Fernando CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Dr Fernando CHEUNG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Miss CHAN Yuen-han, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr POON Siu-ping and Mr TANG Ka-piu voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr NG Leung-sing, Mr Frankie YICK, Mr YIU Si-wing, Mr Charles Peter MOK, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr Steven HO and Mr MA Fung-kwok abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Dr Priscilla LEUNG, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN and Mr James TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 32 were present, 11 were in favour of the amendment, 16 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 33 were present, 20 were in favour of the amendment, five against it and seven abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr CHEUNG Kwok-che, you may move your amendment.

MR CHEUNG KWOK-CHE (in Cantonese): President, I move that Mr Frederick FUNG's motion be amended.

Mr CHEUNG Kwok-che moved the following amendment: (Translation)

"To add "; this Council also considers that the Minimum Wage Commission should include representatives nominated by labour groups, so that the minimum wage level recommended by the Commission to the Chief Executive has greater recognition" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Kwok-che to Mr Frederick FUNG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Kwok-che rose to claim a division.

PRESIDENT (in Cantonese): Mr CHEUNG Kwok-che has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Miss CHAN Yuen-han, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr POON Siu-ping and Mr TANG Ka-piu voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr NG Leung-sing, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Dr Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr Steven HO and Mr MA Fung-kwok abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr WONG Kwok-kin, Mr Paul TSE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Dr Priscilla LEUNG, Mrs Regina IP, Mr Michael TIEN and Mr James TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 32 were present, 12 were in favour of the amendment, 14 against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 33 were present, 21 were in favour of the amendment, four against it and seven abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you have eight seconds to reply.

MR FREDERICK FUNG (in Cantonese): President, yesterday, LEUNG Chun-ying publicly queried the data provided by the business sector in respect of minimum wage by saying that "Please convince me with figures". Today, I challenge Chief Executive LEUNG Chun-ying by requesting him to convince me with action and revise the minimum wage to \$30 per hour.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Frederick FUNG be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Miss CHAN Yuen-han, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr POON Siu-ping and Mr TANG Ka-piu voted for the motion.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr NG Leung-sing, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the motion.

Dr Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr Steven HO and Mr MA Fung-kwok abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the motion.

Dr Priscilla LEUNG, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN and Mr James TIEN voted against the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr Elizabeth QUAT and Dr CHIANG Lai-wan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 32 were present, 12 were in favour of the motion, 14 against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 32 were present, 20 were in favour of the motion, five against it and six abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Third Member's motion: Regulating beauty industry.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Dr Helena WONG to speak and move the motion.

REGULATING BEAUTY INDUSTRY

DR HELENA WONG (in Cantonese): President, I move that the motion on "Regulating beauty industry", as printed on the Agenda, be passed.

Some say the love of beauty is a human nature, and it is not a sin to quest for beauty. Some male Members are leaving the Chamber now, but is the beauty industry of no concern to men? In fact, nowadays, the beauty industry not only targets female customers, but male customers as well. Hence, all

Members should take part in this debate and care for their family members because your wife or daughters may be seeking beauty treatment or medical beauty treatments now.

Some say women can sacrifice their lives for beauty. In fact, I can never agree with this statement because any person, male or female, who wants to be beautiful, visits a beauty salon or receives medical beauty treatments — regardless of the motive or need — actually wants to be beautiful and alive. Hence, nobody will risk his/her life for beauty.

The title of today's debate is "Regulating beauty industry", but the focus of my motion is in fact medical beauty care. The ever-changing advancements in biotechnology and medical technology have resulted in the sudden emergence and rapid development of medical beauty services, bringing about a new and lucrative beauty and medical industry. Some beauty care organizations have even become listed companies earning huge profits.

If we do an Internet search on "cosmetic surgery", we can find that there are dozens of relevant websites in Hong Kong alone. All the operators claim that their cosmetic services are provided by a multi-disciplinary team of medical and healthcare professionals in dermatology, plastic surgery, ear, nose and throat, stomatology, as well as other allied healthcare professions including nutritionists, physiotherapists, and so on. Doctors are employed by beauty care organizations to provide medical beauty services in beauty salons, or clinics and hospitals referred by beauty salons. But are there any regulations on such services? We consider that these facets have gradually gone beyond the general scope of beauty.

In general, basic living beauty means doing face masks and performing skin care, which are not under the scope of regulation that we demand for today. In fact, the most serious problems lie in those medical procedures performed under the disguise of the so-called beauty services, and it is such kind of beauty services that the public are most concerned about. Generally speaking, small and medium beauty salons that provide basic living beauty services can hardly make huge profits and become listed companies.

Then how can some beauty salons make huge profits? In the absence of statutory regulation, these beauty salons purchase medical services products

which already exceed the general scope of living beauty services, and some even provide hyper-pigmentation treatment for customers with optical radiation equipment, such as laser or intense pulsed light. Moreover, some procedures are intravenous or invasive, such as glutathione injections and sheep placenta injections. Some injection treatments are even more alarming, with claims of protecting the ovaries and boosting fertility. As a result, some brides-to-be are wooed to patronize these beauty salons.

These invasive procedures not only involve needle injection, but also various surgeries ranging from minimally invasive surgery to surgery, orthopaedic surgery, V-line surgery, and so on. How can a person's square face become a V-shaped face? It actually involves facial bone shaving surgery. Why do we have such treatments? Some put the blame on Korea because beauty treatments and cosmetic surgeries are very popular in Korea. The trend gradually spread to Taiwan and then to Hong Kong. That is also how the fad for V-shaped face comes about.

Browsing through some websites yesterday, I noted that persons who had undergone these surgeries all talked about the excruciating pain as well as the dire consequences. Some had their surgeries conducted in Hong Kong, and some in Korea.

Now before us, we have a lawless territory. Under the facade of a beauty industry, medical procedures have actually been performed. Even government officials and the Secretary told us that at present there is no statutory regulation. Therefore, the current problem is that the beauty industry is not simply engaging in commercial undertakings, but practices which endanger public health and safety, and affect consumer rights.

Many girl friends said to me, "Today, you must say it loud and clear that the beauty industry must be brought under regulation." That is because they have often been subject to hard-selling in beauty salons. For example, after they have been undressed and covered with just a blanket in a freezing air-conditioned room, the staff would bombard them until they were so confused that they handed over their credit cards for payment. In such cases, the salesperson did not know whether the services promoted were safe or not, and the client had bought many treatments in a confused state of mind. Therefore, I propose this motion today, hoping to arouse Members' concern about this long-neglected problem.

Recently, the community has been shocked by the incident of the DR beauty group, which is a terrible medical beauty blunder with one victim died, one handicapped, and two still hospitalized. The handicapped victim has her two lower legs and four fingers in right hand amputated. What is supposedly a beauty treatment can eventually cause sepsis through the intravenous infusions. What seems to be some harmless intravenous infusions involve the risks of losing life, amputating both legs and both hands, and becoming handicapped. Ultimately, the risk can be fatal.

In our view, similar tragedies will happen again if no action is taken by the Government to deal with the matter squarely and if no consideration is given by Honourable colleagues of the Legislative Council to introduce appropriate legislation for regulation purpose.

Recently, the Democratic Party conducted a voice survey on public views about regulating the medical beauty profession. According to the findings, a majority of the 715 interviewees considered that there was a need for regulating the beauty industry, over 90% opined that intravenous beauty treatments must be performed by medical professionals, and over 85% agreed that a "cooling-off period" should be provided for the selling of beauty services.

The motion I propose today has incorporated various issues of public concern. Of course, our greatest hope is to arouse general concern about the risks of invasive and intravenous medical beauty services, the conduct and responsibility of individual beauty service providers, doctors and nurses, as well as the regulation of medical devices. In this connection, I would also like to call on the industry to immediately stop high-risk invasive medical acts; and I also urge the Government to expeditiously study and enact legislation to regulate the conduct and services of the beauty industry.

Of course, some of the measures I propose today are debatable. But I am glad to see that most of the amendments are not against the need for strengthening regulation. In fact, items (a) to (d) of my motion are related to medical beauty care, for example, the use of medical procedures. Item (e) is related to the general conduct and business practice of the beauty industry.

I will talk about the first four points first. First, we hope that clear definitions can be provided, such that beauty services and medical procedures

provided by beauty salons are distinguishable. Of course, this is a highly challenging task. We are not sure whether such a clear distinction can be made because there are indeed some so-called grey areas. Nonetheless, we must provide some sort of distinction, that is, whether the relevant medical beauty procedures are high-risk or low-risk. All these require formal and professional assessments. In addition, there should be a requirement that only professionally qualified healthcare personnel may carry out the high-risk medical procedures.

The second point I would like to talk about is disclosure of risk. Regarding this incident which causes death and disabilities, our hearts are filled with great sympathy and sadness. But, on retrospect, nobody would have anticipated that they would die, or lose their hands or legs because of some beauty treatments. Has the operator disclosed the relevant risks to the victims and other customers when promoting these medical and beauty products? Is that a necessary step to take?

I was told that the intravenous injection used in this incident is in fact used for treating patients with terminal cancer, rather than enhancing the beauty of healthy persons. A patient with terminal illness may agree to take injections with some side effects, but were the customers clearly aware of the consequence and risk of the medical products they purchased? Hence, the relevant risks must be clearly disclosed to the customers so that they have a thorough understanding of the risks involved. It may even be necessary to introduce legislation to prohibit the carrying out of high-risk or unnecessary medical procedures solely for profits.

The third point I would like Members to consider is that we should clearly define the responsibilities. If the doctor involved in this incident is to be sanctioned, we are even more concerned about whether the medical group itself (and its investors) should also be held responsible to a certain extent.

The fourth point I would like to raise is that a medical device registration system should be implemented, so as to ensure that such devices are only operated by trained personnel who are aware of the associated side effects.

The last point is about providing a "cooling-off period" for the entire beauty industry. We hope that a review on the Trade Descriptions (Unfair Trade

Practices) (Amendment) Ordinance 2012 can be conducted as soon as possible, in order to combat unfair trade practices.

President, I so submit. I hope Honourable colleagues will support my motion.

Dr Helena WONG moved the following motion: (Translation)

"That in recent years the beauty industry in Hong Kong has been developing rapidly and providing a range of services over and above general beauty care needs, which even include invasive medical beauty services the effectiveness of which is in doubt; recently, a beauty treatment centre gave intravascular infusions to some 40 consumers, with the consequence that four women sustained septic shock, and one of them had even passed away unfortunately; the incident has aroused public concern about the risks of invasive medical beauty services, the conduct and responsibility of individual beauty service providers and medical practitioners as well as the regulation of medical devices; in this connection, this Council calls on the industry to immediately stop high-risk invasive medical acts, and urges the Government to expeditiously enact legislation to regulate the conduct and services of the beauty industry; the relevant measures should include:

- (a) to clearly define high-risk and invasive medical procedures, and require that only professionally qualified healthcare personnel may carry out such procedures;
- (b) to stipulate that the industry and healthcare personnel must clearly and fully disclose in advance the risks and possible after-effects to the customers who are intending to receive the treatments;
- (c) to clearly define the responsibilities that the industry and healthcare personnel must bear after the occurrence of incidents;
- (d) to implement a medical device registration system, and require that only professionally qualified persons may operate such devices; and

- (e) to amend the relevant legislation, and incorporate a 'cooling-off period' for selling beauty services into the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012, which will come into force next year, to combat unfair trade practices,

with a view to upgrading the industry's conduct and standard of services for the protection of public health."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Helena WONG be passed.

PRESIDENT (in Cantonese): Eight Members wish to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the eight amendments.

I will first call upon Dr Joseph LEE to speak, to be followed by Miss Alice MAK, Dr KWOK Ka-ki, Mr CHAN Han-pan, Mr Vincent FANG, Mr CHAN Chi-chuen, Mr Ronny TONG and Dr LEUNG Ka-lau respectively; but they may not move the amendments at this stage.

DR JOSEPH LEE (in Cantonese): President, thanks to Dr Helena WONG for proposing this motion today. When we discuss the regulation of the beauty industry today, I think the Secretary may say later that he is not sure whether this matter falls under his purview because it may involve the Food and Health Bureau, or other issues such as retailing, and so on. Therefore, it does not fall under his purview. I do not know whether the Secretary will say so in his reply.

However, the entire motion is in fact focused on medical beauty care. I just mentioned to Dr LEUNG Ka-lau that when we were small, we sometimes saw posters or photos in the streets with claims of turning single eyelids to double eyelids. What was that about? After we entered the healthcare profession, we know that this kind of procedure is called plastic surgery or cosmetic surgery. Now it is quite easy to turn single eyelids to double eyelids. No cuts is required — or perhaps the ladies know better than I do — all it takes is a special kind of tape to have double eyelids and look more beautiful.

However, this incident has highlighted the need for regulating the beauty industry. When it comes to regulating the beauty industry, the industry will say that there is the Code of Trade Practices for the beauty industry, the Consumer Council has also mentioned that code of practice. However, the compliance of that code is voluntary. What does it imply? Obviously, one can say that there is no regulation of the beauty industry now. Even the Government has no idea which department is responsible for supervision. I hope that through this incident and today's motion debate, the Government will ascertain who is responsible for the matter. Perhaps it will be the Chief Secretary's responsibility ultimately. But she is not with us now because the subject of our discussion is not Old Age Living Allowance, hence she is not present today. But no matter what, she must ascertain which department should come forward to tell the public that the authorities will regulate the beauty industry. How to define "qualified" beauticians? Can persons who have completed some courses and obtained several certificates claim themselves as beauticians? If so, the Secretary's work will be easier because there is more or less a clear definition of the regulatory authority of the beauty industry. If the public or the Chief Secretary also considers that the Secretary should be responsible, the Secretary should regulate the beauty industry accordingly. I think that is a direct approach.

However, this incident highlights one problem. In this incident which has caused the death of one patient and serious injuries for three patients, the problem of so-called "medical beauty care" is highlighted. What is the nature of high-risk invasive acts carried out by beauty salons? Are those "cosmetic" or "beauty" treatments, or are they illegal or even high-risk medical acts? That is subject to debate.

I hope that through today's motion debate, the authorities will deal with the problem squarely. In addition to the regulation of the beauty industry, our discussion also focuses on questions like how to define the so-called "medical beauty care", are there services that can be regarded as "medical beauty care", in what premises should medical beauty procedures take place, and who should carry out such procedures. Perhaps the Secretary will also say right away that he has already set up a committee, and it will publish a report one year later. Perhaps he will also say that regulation is now imposed by a number of ordinances in Hong Kong including Cap. 138, 156, 161, 162, 164, 359, 428 and 549 which regulate healthcare professionals performing medical acts; Cap. 132, 134, 137, and 138 regulate drugs; Cap. 303 regulates equipments — the scope of

regulation only covers irradiating apparatus, but not general medical devices; Cap. 465 and 561 regulate medical procedures; and Cap. 165 and 343 regulate premises. There is also legislation which regulates advertisements, namely Cap. 231. Back then, I also took part in the enactment of this legislation which regulates undesirable medical advertisements.

However, an advertisement was posted in the newspapers on 29 October. In gist, it claims that if any person, say Joseph LEE, is interested, he can become younger by 10 years in 12 weeks with skin regaining suppleness and firmness of a youthful state. All it takes is an "anti-ageing injection". Is this kind of advertisements a borderline case? Can prosecution be instituted? However, we noted on various occasions that the enforcement of the Undesirable Medical Advertisements Ordinance is worrying because according to the statistics provided by the Government, there were only 10 successful prosecution cases from January to August 2012, that is, out of 1 205 prosecution cases, only 10 were successful. Is this really effective enforcement?

I have spent over one minute on these matters. In fact, I want to point out that seemingly there are so many ordinances imposing regulation, but have high-risk medical acts conducted in the name of medical beauty care actually been regulated? The answer is no, and this is a major loophole. Hence, I consider that instead of waiting for the committee's report in one year's time, the Secretary should take concrete actions immediately so that high-risk medical acts carried out in beauty premises or unlawful premises can be brought under direct regulation. Obviously, the many ordinances I have just read out cannot regulate this kind of acts effectively. Members of the public who quest for beauty — who do not only receive intense pulsed light treatments or facial treatment — can easily fall prey to this kind of acts under the impact of both undesirable advertisements and a low success rate of prosecution. Worse still, in the current incident, there is the procedure of extracting certain substances from the body of the customer, mixing them with other substances, and then injecting the mixture back into the body of the customer. This act claims to make one look more beautiful, and this procedure is highly dangerous.

A very special procedure is involved in this incident, that is, extracting substances from a person, mixing the same with other substances, and then injecting the mixture back into the person. Another issue is involved. It turns out that there is no regulation on laboratories, that is, the premises in which the

procedure of extracting substances from a person and mixing the same with other substances took place. It is the focus of my amendment today. Perhaps the Secretary will say that medical laboratories are already under regulation now. But having checked the legislation, we know that the so-called regulation is actually just a requirement that at least one licensed director of a medical laboratory must be a registered medical laboratory technologist. That is regulated by law. But the law only regulates that person. Should Dr LEUNG and I jointly invest in and operate a medical laboratory, and a person is employed as the director, then we only need to complete the business registration, and all equipments and procedures of this laboratory would be subject to no regulation. What are the standards adopted, and whether the tests are conducted by suitable personnel? To put it bluntly, it is no big deal so long as I can pay this person, and he is willing to sign the papers or bear the responsibility.

We can see from this incident the high risks involved in medical laboratories in Hong Kong as a result of contamination of samples — the samples in this incident could be contaminated, but I dare not make a wild guess before any report is published. Nonetheless, if the samples in this incident are indeed contaminated and the contaminated substances are injected into the customer, the risks are indeed very high. If samples are extracted and invasive medical acts are carried out in beauty premises, even the persons concerned may not know that the samples have already been contaminated. Under the circumstances, given the lack of regulation in each process, high risks are involved, and similar tragedies as this incident can easily recur.

Secretary, that is why I hope that you can review the situation again. Perhaps you will find that this is "none of your business" after all, but at least, you should examine the ways to regulate the existing medical laboratories. It is quite disappointing to see that at present, there is hardly any regulation on medical laboratories. In addition, I would also like to discuss other more important issues, that is, whether the Secretary can now provide us the definition of the so-called "medical beauty care", and whether invasive medical acts can be carried out in beauty salons? I suggest that the Secretary should adopt administrative measures to provide such definition as soon as possible, so as to ease public concern, as they now know that procedures defined as invasive medical acts by the Government should be carried out by qualified and registered personnel under regulation. With such public education, the consumers will know how to make the right choice. For example, should Dr LEUNG Ka-lau

and I operate a beauty salon and offer an "anti-ageing injection", the consumers would not purchase our services if they found out that both of us are not the qualified personnel. Perhaps they would patronize the beauty salon operated by the Secretary because it is licensed and the treatments are carried out by doctors. Such administrative measures can reduce the risks borne by members of the public during the window period. Moreover, the Secretary should also impose stringent regulation on clinics. Of course, this is undoubtedly the responsibility of the Department of Health. Stringent regulation and inspections should be carried out at this stage so as to minimize the number of cases involving claims of becoming 10 years younger after taking an injection. I hope that this can help minimize the recurrence of similar tragedies within the window period.

Lastly, we certainly hope that concrete recommendations will be made by the committee in one year's time, in order to ease public concern. The committee should also define what is meant by beauty industry and how to impose regulation, such as the conduct of certain medical acts in premises like beauty salons, and so on, in order to ease public concern. Lastly, all those who receive beauty treatments, men and women alike, should have no worries because they know that the money they pay are going to make them beautiful rather than take away their lives.

Thank you, President.

MISS ALICE MAK (in Cantonese): In recent years, the beauty industry has been booming in Hong Kong, and there is even the emergence of the so-called "medical beauty care". As love of beauty is a human nature, people will become attracted to "medical beauty care" services which appear to be more scientific, more professional and more effective than ordinary and general beauty services. However, nobody would have thought that one beauty treatment is enough to take away one's life.

According to the statistics provided by the Consumer Council, it had received a total of 886 complaints about beauty services in 2011, a 12% increase over that in 2010. Of these complaints, 26% were related to sales practices. In the first nine months of this year, the Consumer Council has already received 19 complaints relating to plastic surgery or intravenous treatments, while the number of such complaints was only 12 for the whole of last year. Other complaints

were related to beauty treatments involving blood serum, platelet-rich plasma injections or platelet.

The number of complaints related to these beauty services has been on the increase in recent years, but the Government is still acting with hindsight. In fact, the Government had already proposed the regulation of beauty devices some years ago, but no follow-up actions had been taken. No legislative amendments had been proposed after consultation. It is only until recently with this beauty incident causing the death of one patient and three patients in critical condition that the Government has dealt with the matter squarely — perhaps the matter is given due attention because the new Secretary has just assumed office, I hope that is the case — the Government has hastily announced the establishment of a Steering Committee on Review of the Regulation of Private Healthcare Facilities (Steering Committee) to study whether premises for performing high-risk medical treatments or procedures should be brought under regulation.

It may take some time before the regulation of the beauty industry can be enforced. In the interim, we consider that the Government should implement some measures. First, it should provide clear definitions of medical procedures and beauty services as soon as possible. Regarding the beauty treatments I have just mentioned, while medical procedures are involved but given the absence of regulation, even the authorities cannot clearly define whether or not they are medical procedures. In that case, how can ordinary members of the public make a judgment? Clear definitions in this regard can facilitate consumers in making decisions to purchase beauty services. Apart from consumers, we have also contacted many beauty industry employees. There are two general unions of the industry under the Hong Kong Federation of Trade Unions (FTU). The employees generally hope that clear definitions and guidelines can be given because they do not know what can or cannot be done. Moreover, they only have limited information, particularly front-line employees of large beauty groups. They can only follow the instructions given by the employers. For the sake of keeping their jobs, they dare not refuse or ask questions. Even if they ask questions, their employers may not tell them. When something happens, this group of front-line employees may become scapegoats.

Earlier, the Secretary has stated that guidelines would be formulated by the relevant working group in a few months' time. I hope that after the introduction of the guidelines, more inspections will be carried out by the authorities in a

proactive manner, rather than conducting investigations only when some incidents have happened or complaints are received. Otherwise, all regulation and guidelines will only exist in name only.

Apart from clear differentiation between medical procedures and beauty services, publicity and education are equally important. Just now, Dr LEE mentioned "anti-ageing injections". Recently, there is a procedure called "non-surgical nose shaping" or "manual nose shaping", that is, making one's nose higher through manual manipulation. All sorts of advertisements about these beauty treatments can be found everywhere such as newspapers, magazines, radio programmes, various means of public transport — bus advertisement is very popular nowadays — or even large light boxes on the external walls of buildings. I think if I flip through a weekly magazine, half of the pages would be advertisements about all sorts of manual beauty treatments, acne treatments, and so on and so forth. No matter what the problem is, there are always means for treatment. Some beauty companies even collaborate with travel agents to organize cosmetic surgery tours with arrangements made for Hong Kong customers to undergo cosmetic surgeries in countries like Japan and Korea. When selling these treatments, the beauty salons or their employees will not disclose the associated risks to customers, or they are unaware of the risks themselves.

According to one employee we have contacted, they learned the technique of "manual nose shaping" from a doctor through demonstration. They thought that the technique taught by a doctor would be definitely safe. But luckily, the doctor had slightly erred on that occasion. As he had applied slightly too much force when reshaping the nose after injection, the patient's nose became slanted. Therefore, these employees knew that they should not perform such a treatment. If the doctor had done a good work on that occasion, all of them would be performing this treatment. Hence, beauty industry employees are now facing the problem of inadequate information. They want to obtain information in order to prevent such incidents. Moreover, they do not want the image of the industry tarnished by these incidents. Hence, we hope that the Government can formulate a set of clear guidelines expeditiously and carry out inspections proactively, so as to assist the continued operation of the industry.

We find that when most people are told by doctors that I think Dr LEUNG Ka-lau would know best. For example, if a diabetic patient is told by

his doctor to keep a strict diet and exercise, he may not listen. But if a patient is told by a doctor that his acne and wrinkles would all disappear by taking injections, medication, and so on, he will surely listen because he believe that treatments performed by doctors and nurses will definitely be safe. As a result, doctors are employed by some large beauty groups for marketing purpose, and they would feature in the advertisements. How does the Government regulate these advertisements? Why must the Government wait until members of the public fall sick because of such treatments they see on advertisements before taking actions to resolve the problem? After an incident has occurred, the beauty salon concerned would shift the blame to front-line employees or the doctor, that is, the doctor who appears in the advertisements will be responsible. Hence, this incident has already sounded an alarm. We very much hope that the Government will expeditiously enhance publicity and education in order to increase the awareness of members of the public, and minimize their chance of being misled by unscrupulous businessmen. As far as we are concerned, this incident was caused by misleading sales practices of an unscrupulous businessman.

In fact, as early as some 10 years ago, concerns have already been raised about the use of medical devices in the beauty industry. We consider that the Government should no longer stay put; instead, it should hasten the implementation of regulation in order to ensure public safety. However, regarding some amendments proposed by Honourable colleagues, including the proposal of introducing a demerit point system by Dr KWOK Ka-ki, and that of taking out medical insurance by Mr Ronny TONG, although we agree that they can help protect consumer rights, the labour unions are still worried about these broad-brush measures. Hence, for the sake of ensuring early implementation, we hope that the Government can consult the industry on the proposals of introducing a demerit point system and taking out medical insurance as soon as possible.

Meanwhile, Mr Vincent FANG's amendment proposes to delete the reference to "a cooling-off period". We find this unacceptable as the rights of consumers would be ignored. Our proposal is that consumers should be given a "cooling-off period". In fact, many customers who patronize beauty salons would pay for the treatments with credit cards. When they see the doctors later, they may be told by some kind-hearted doctors that the injections are not right for them. But as they have already paid and signed the contracts, they must

complete the treatments. The doctors may tell them that there are 10 treatments in a full course, and they can try one first. But they may fall sick because of that one treatment. Hence, we consider that it is very important to provide a "cooling-off period".

Lastly, it has almost been a month since the occurrence of this incident which involves the death and critical illness of patients as a result of septic shock after receiving intravascular infusions, but the beauty group concerned has yet to give a detailed account of the incident, and it has not even expressed any sympathy or apology. Hence, we very much hope that the authorities can conduct thorough investigation into the incident as soon as possible and make all parties concerned bear legal responsibilities, so as to bring justice for the victims as well as their family members.

President, I so submit. Thank you.

DR KWOK KA-KI (in Cantonese): President, first of all, I am very grateful to Dr Helena WONG for moving this motion. I believe we will not have this debate today if the extremely worrying and painful disaster concerning the DR beauty group had not happened this month, and Secretary KO Wing-man would not have to attend the special meeting of the Panel on Health Services a few days ago to discuss the incident.

We may think that the DR beauty group will be held responsible for the incident and those undesirable medical advertisements will be more constrained. However, I have just taken a look at the DR beauty group's website and I found that it still indulges in sophistry, claiming that this incident has nothing to do with the group. Moreover, we still find some bizarre "treatments", including the "V face shaping" mentioned just now, freezing fat cells for dissolution, focused ultrasound, ice bio-polar radio frequency and focused ultrasound cavitation fat-breaking devices. There are no scientific evidences for these "treatments", but people are constantly attracted by the undesirable medical advertisements.

A few days ago, the Secretary presented a document on the regulation of this industry to the meeting. We were delighted, thinking that the Government had rapidly responded on 26 October to the incident that happened early this month. However, after reading the document, we found that there is nothing

special because the regulation will take a very long time, and legislation will only be enacted more than two years later. Nevertheless, the most important point is that the Government attempts to accomplish an impossible task, that is, to specify the definitions of medical beauty care and medical procedures. The definitions should be defined, but this is precisely the area that the beauty industry can exploit the legal loopholes.

This incident only involves intravascular infusion which only comes under class II, a low risk medical act under the Government's regulatory framework of medical devices. Intravascular infusions are carried out in many public or private hospitals every day. If intravascular infusions or the infusion of we know that DR has claimed that the infusions are not medical treatments but treatments carried out for healthcare purposes; thus, they are not medical procedures. The future regulation will be very difficult precisely because of that.

I really sympathize with Secretary KO Wing-man; as many Honourable colleagues have pointed out the regulation of the beauty industry has nothing to do with him, and it just happened that this incident involved medical beauty care. If we only rely on the regulation of medical beauty care, we should understand that all kinds of regulation will not necessarily be successful. The reason is that it is very easy to open a beauty salon in Hong Kong; you and I, and anyone else can open a beauty salon after obtaining a business registration certificate. The so-called beauticians employed by beauty salons do not have professional qualifications; anybody can perform nose shaping and injections so long as he/she dares to do so.

As we all know, back in July 2003, the then Director of Health, Dr LAM Ping-yan, proposed the regulation of medical devices. Today, almost 10 years later, we only have the registration of medical devices; as regards enactment of legislation to regulate medical devices of higher risks as discussed more than nine years ago, it had disappeared without a trace. President, the Government has not done anything over the past nine years to regulate high-risk and high-energy laser-radio frequency devices. Isn't that outrageous?

We thought it was a novel idea, but after looking up the documents of the Legislative Council and the former Legislative Council, we found that a Member raised a question on the regulation of the beauty industry on 12 November 1986. After a lapse of 26 years, the Government has not done anything, which is hardly

imaginable because this industry affects consumers every day. We all know that the Government has compiled some statistics — I am referring to the statistics compiled by the Government 10 years ago — it turned that there were nearly 6 000 beauty salons; in other words, tens of thousands of consumers receive unknown treatment each day. The Government has not done anything over the past two decades. In 2002, the Panel on Economic Services discussed again whether consumer products including the safety of beauty products should be regulated. As the Government stated in its reply at that time (the reply has nothing to do with the Secretary), the hazards and risks were not high and the serious cases involving beauty products had been handled by the Government through the public health surveillance system. Oh, the cases had been handled. However, if the cases had really been handled, this incident would not have happened today. As a result of the incident, a person was dead, a patient has her lower limbs amputated, and two other persons are critically ill.

It would be idiotic nonsense for us to think that the public health surveillance system mentioned by the Government is feasible. Irrespective of how much work the Food and Health Bureau has done, the objectives cannot be met unless there is direct regulation of the industry. Therefore, in my amendment, I propose to enact comprehensive legislation and put in place a licensing system to regulate the beauty industry.

I have just heard from Miss Alice MAK who is not in the Chamber now that this cannot be done. I really sympathize with members of the Hong Kong Federation of Trade Unions. In fact, it is not beauty practitioners who have exploited customers or created a lot of problems; the bosses are the culprit. We demand for regulation because we wish to set up a licensing system. Let us not forget, even for industries that are less hazardous than the beauty industry, the Legislative Council has also imposed regulation to safeguard the interests of consumers, including estate agents, travel agents and insurance agents. This Council had heated debates over the regulation of these trades, and the representatives of the business sector and the industries had indicated that the regulation was undesirable as it would affect business operation. However, regulation through legislation will not affect business operation; instead, the public and consumers will have more confidence in these industries if a formal statutory regulation regime is in place, and these industries will flourish.

President, if we want the beauty industry, including the very popular spa industry the Government really hopes that Hong Kong would become the tourism capital of Asia, but if no regulation is implemented and a tourist suddenly died after some sort of injection, we really do not know how we can promote tourism. So, in order to achieve favourable economic development, we should work together and regulate the industry. In 2011, the Consumer Council received 886 complaints about the beauty industry, 12 complaints more than the number in 2010. In the past nine months, the Consumer Council received 19 complaints about plastic surgery and injection treatments, 12 complaints more than the total last year. There are two complaints about serum and platelet beauty treatments within nine months, and there are nine complaints about serum, serum stem cell injection and platelet beauty treatment in the past three years. Why has the Government, including the Department of Health, remained indifferent to these complaints? The Consumer Council has noticed the problems in the past three years.

Some people say that the industries should have self-regulation. In 2006, the beauty industry implemented voluntary regulation upon the Consumer Council's recommendations. But, that was certainly ineffective. From 2006 to the present, the situation has become increasingly serious, with more consumers falling into traps and more incidents have occurred. We should remember that in 2010, the Consumer Council took a rare move to publicly reprimand the Q & A Plus Health Spa. If self-regulation of the industry is feasible, the DR incident would not have happened today. Thus, we cannot rely on voluntary regulation of the industry.

Nonetheless, the most important point is that the regulation should be multi-faceted and covering various aspects. I would like to point out that the most important issue is the undesirable medical advertisements. At the Panel meeting on 26 October, the Director of Health said that the Department had examined and screened more than 200 advertisements following this incident, and it has also reviewed many other advertisements, but there is not even one non-compliant case. This is really bad. All of us can see that these undesirable medical advertisements are obviously misleading, yet the Government cannot do anything. Hence, if after this debate of the motion and my amendments in this Council today, the Government still adheres to the method of regulation proposed on 26 October, we cannot expect consumers to be protected.

I so submit.

MR CHAN HAN-PAN (in Cantonese): President, the love of beauty is a human nature. As the ancient saying goes, "A girl will doll herself up for her admirer". Ladies in ancient times already loved to dress up. With technological advancement, the pursuit of beauty by human beings is not only limited to the outward appearance, such as makeup and clothing, but also extend to the look and figure, as well as to improve one's inherent deficiencies. Hence, the beauty industry has flourished. Any acts of adding or extracting substances to and from our body are highly risky. Recently, some persons suffered from serious complications and one of them even died after receiving the intravascular infusions advertised as the so-called "medical beauty procedures". That is really sad. More importantly, the incident reveals that the definitions of medical treatments and beauty services are ambiguous, which affected people's judgment when they select services. Today, I would like to express my views on medical beauty care and beauty services.

Dr Helena WONG's motion is on "regulating beauty industry" but I would like to stress that this unfortunate incident does not only involve the beauty group and consumers; it also involved the doctor responsible for conducting the treatment. We still do not have an international standard definition of beauty services, and if we only regulate the beauty industry as proposed by Dr WONG, it is not comprehensive enough. Let me quote the remarks made by the Secretary for Food and Health, "(this incident) is very clearly a medical act — a medical act involving risks." (End of quote) The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) conducted a telephone survey earlier and about 60% of the respondents indicated that they did not know what was meant by medical beauty care. For this reason, the authorities should proceed to define medical beauty care, in particular beauty services involving medical procedures, so as to explain clearly to the industry and the public the definitions of these services. Only in this way can further regulation be imposed.

After taking the first step, the next step is for us to separate medical beauty care into medical procedures and beauty services. After the incident, Dr Elizabeth QUAT and I have approached the beauty industry for more information. We found that the beauty industry provides extensive services, including make-up, hairdressing, manicure, facial treatments, as well as laser, intense pulsed light, machine slimming, injection and orthotics. People who provide the services include beauticians, medical personnel and other professionals. Some of these beauty services involve different degrees of

invasions such as piercings, pimple clearing, optical speckle removal, injection, implantation, and so on. In our view, if classification and assessment of risk are merely based on the factor of invasion, as the approach adopted in Singapore, it may not be comprehensive and appropriate in the situation of Hong Kong.

In fact, the authorities can draw more reference to practices in other countries. For example, in the United Kingdom, the difference is drawn on the basis of whether surgeries are involved. There are non-surgical cosmetic treatments and cosmetic surgery, and the scope of performance by different beauticians and medical personnel is also regulated. I hope that the Steering Committee on Review of the Regulation of Private Healthcare Facilities established by the Government can expeditiously invite the relevant stakeholders to form a working group, so as to discuss in detail the items and types of beauty services, and assess the risks of them separately. It should also formulate the relevant guidelines or codes, requiring high-risk beauty practices to be referred to doctors while highly risky beauty practices should be carried out in hospital. The responsibilities of persons selling and carrying out the services, as well as the premises and the related facilities should also be regulated.

In particular, I would like to mention that this incident came to light because two victims were admitted to the Ruttonjee Hospital. The Hospital notified the Department of Health of these two rare but serious cases, and investigation was thus conducted. On the one hand, I would like to commend the medical personnels for their professionalism and vigilance; and on the other hand, this also indicates that the notification mechanism is really important. Apart from regulating the persons who carry out beauty services and the premises in which beauty services are carried out, the authorities should also consider putting in place an incident reporting mechanism, so that it can timely grasp the information and take speedy actions in investigation and follow-up.

President, another concern of the DAB about the regulation of beauty services involving medical procedures is related to the regulation of the medical devices. With the advances in technology, people learn from advertisements all kinds of treatment by medical devices, but they may not be clear about the effectiveness or risks involved. For example, accidents had occurred several years ago in connection with the popular laser and intense pulsed light devices for speckle removal. We have always been concerned about the Government's regulation of similar medical devices. Mr LI Kwok-ying, a former Legislative

Council Member belonging to the DAB moved a motion on "legislating to regulate medical devices" in 2006. Although the motion was passed at that time, it is a pity that after the Government issued the Consultation Document on the Regulation of Medical Devices in 2003 and established the Medical Device Control Office in 2004, only a phased implementation of a voluntary medical device registration system had been put in place. The long time taken for registration fails to keep up with the rapid development of medical devices, and the effectiveness of the registration has not been reviewed many years after its implementation. I hope that the authorities will not delay further and would take advantage of the establishment of the Steering Committee to review the relevant registration and improve the regulation of medical devices by requiring the operation of such devices by accredited professionals, so as to safeguard consumers' health and the professionalism of the industry players.

Finally, President, on behalf of the DAB, I would like to express my views on the original motion and the amendments. Let me reiterate, there is still no uniform and clear definition of beauty services involving medical procedures in the international arena. If we only refer to the practices of individual regions, regardless of the actual situation in Hong Kong, and do not consult the medical profession and the beauty industry, but purely classify the services and the person performing the services on the factor of invasion, this "indiscriminate" approach may not effectively solve the problems. We have reservations in this connection. In addition, the DAB has all along advocated the setting up of a "cooling-off period" for pre-paid beauty services, but this point has been deleted in Mr Vincent FANG's amendment. We find that unacceptable and we will therefore abstain from voting.

I so submit, President.

MR VINCENT FANG (in Cantonese): President, before giving my remarks, I would like to express my deep condolences to the four women and their families; one of them passed away unfortunately and the rest are still hospitalized; all of them have purchased intravascular infusion treatments from the DR beauty group. The Liberal Party and I support the police's in-depth investigation into this incident and we also support the proposal made by the Food and Health Bureau following this incident to "review the regulatory regime for the private healthcare facilities in Hong Kong". If anyone exploits the existing policy loopholes to

carry out inappropriate medical procedures, the loopholes should be plugged so as to avoid the recurrence of similar tragedies.

However, President, I think the subject of today's motion has deviated from the contents, because the measures proposed focus on the incident of intravascular infusion treatments carried out by a registered western medical practitioner inside a clinic. The blood infused into the body is not a "commodity" that can be bought in the market but medical goods that has been processed in a laboratory. This is a very high-risk medical act and the process involves a laboratory, so this is simply not a beauty treatment that can be carried out by a beautician or in a beauty salon. Hence, we should review from a medical perspective whether the existing laws for the regulation of medical acts are adequate. Therefore, a more appropriate subject of today's debate would be "regulating medical beauty". If this is the subject, it will have my support and the support of the beauty industry and fellow members of the Liberal Party.

Some will surely ask if the beauty salon does not need to be held responsible. Are all members of the beauty industry law-abiding? I can tell you that we cannot definitely say that all members of the beauty industry are law-abiding. Regarding this incident, if the persons received the treatments in a beauty salon or if they received injections by beauticians, the law has certainly been violated. As the Secretary has publicly stated, if there is any medical procedure that is not carried out by a doctor, the Medical Registration Ordinance has already been violated and it may be a case of practising medicine without a license.

For this reason, the industry players support the Government's proposal of drawing a reasonable and appropriate distinction between medical beauty care and beauty services, and specifying what medical procedures should be carried out by trained doctors or medical personnels, and what beauty treatments can be carried out by trained beauticians. A treatment referred by a beauty salon has turned into a tragedy in this incident. I was told by the industry that the business of almost all beauty salons has been affected, and most customers resist all services provided with the assistance of certain devices, and they only accept basic services provided manually. The beauty industry worries about the difficulties in their operation in the long run and fears that this may cause closures, probably affecting more consumers.

The Secretary has said that it will take a year to draw a distinction between medical beauty care and beauty services, but the industry considers the process too slow. The industry hopes that the authorities can accelerate the process, in order to allay consumers' doubts and bring business back to normal.

Some demands of the industry in respect of the classification are as follows:

- (a) it is hoped that the general services currently provided by the beauty industry such as intense pulsed light and lasers can be maintained;
- (b) it is hoped that when the Government monitors medical devices, the devices for medical treatment and beauty services can be regulated separately; and
- (c) the beauty industry supports suitable regulation.

The industry and the Liberal Party basically agree to items (a), (b), (c) and (d) in the original motion but we hope that even medical personnel should receive the relevant training before carrying out the medical procedures and using the devices concerned. We do not want the current practice to continue. At present, many plastic surgery doctors are general practitioners or gynecologists who have not received plastic surgery training. This is the spirit of the amendment I moved.

The industry totally agrees that, in the beauty industry, just like other industries with economic prospects, there are inevitably some speculators whose behaviours have deviated in terms of sales practices and service. Thus, the industry supports appropriate regulation, hoping to stop those acts that would tarnish the reputation of the industry, lest the industry will be under the attack of various sectors of the community from time to time; and as proposed in the original motion, there is a demand for legislation to incorporate a "cooling-off period" for selling beauty services.

The cooling-off arrangements under the Trade Descriptions Ordinance have basically failed to cover high-risk medical beauty procedures. If consumers complain about being forced by beauty salons to buy large quantities of services by using coercion and threats or by tiring them out, the Trade

Descriptions (Unfair Trade Practices) (Amendment) Bill 2012 which we passed before the end of the last legislative session, has set out six illegal practices which can sufficiently safeguard the interests of consumers. Regarding the "cooling-off period", besides being technically unfeasible, to be frank, the beauty salons can easily extol customers to the skies within the seven-day "cooling-off period" if they intentionally want to exploit the customers. Instead, for some law-abiding small and medium enterprises, if there are a few cases involving the cancellation of signed credit card transactions, this will certainly affect their relationship with the banks, which may even not provide credit card readers to them. Furthermore, as large quantity discounts and a commission system have always been adopted in the industry, the implementation of the "cooling-off period" will easily lead to disputes over the calculation of the wages of practitioners and the service charges on customers. A greater trouble is that it may encourage consumers to make credit cards payments without careful consideration, which may conversely make the overall business environment even more chaotic.

The objective of the above legislation is to stop merchants adopting improper sales practices that cause unnecessary losses by customers. Yet, today's motion is on the Government's regulation of high-risk medical procedures. The Liberal Party opines that these issues should be discussed separately, and the factors of urgency and severity should be taken into consideration. Hence, we oppose bundling the "cooling-off period" and we will vote against the motion and the amendments which retain the "cooling-off period".

I also understand that many Members of this Council support legislating on the "cooling-off period", thus the original motion and the amendments may be passed. My amendment will be withdrawn if the amendments are passed. No matter whether my amendment will be passed, I have moved the amendment to point out where the problem lies; the beauty industry should not be solely blamed for the loss of lives and severe disability as a result of the intravascular infusions in this incident. Hence, I hope Honourable colleagues would understand the purpose of my amendment and support it. I so submit. Thank you, President.

MR CHAN CHI-CHUEN (in Cantonese): President, today our discussion is about enhancing the regulation of medical beauty services. If our discussion is simply about this couple of words, I believe that even if the incident of DR beauty group had not taken place, we should not object to enhancing the regulation of

medical beauty services. However, as we know, it is indeed very difficult to regulate medical beauty services. One of the lines in the original motion reads: "this Council calls on the industry to immediately stop high-risk invasive medical acts". This sounds like the right thing to do, but three important concepts are mentioned, namely, "industry", "high-risk" and "invasive medical acts", which must be defined properly before "this Council calls on the industry to immediately stop high-risk invasive medical acts" can be established.

As mentioned by Dr Helena WONG earlier, it is extremely challenging and difficult to define "high-risk" and "invasive medical acts". However, when there is currently still no clear definition on these three important concepts, is it reasonable for us to request the trade to stop such acts immediately? Does the term "industry" merely refer to beauty salons or beauticians? Does it include healthcare personnel working in beauty salons? What is meant by "high-risk"? It turns out that intravenous injection, as we have just heard from Dr KWOK, belongs to the low-risk category, while "invasive" medical acts also cover the "minimally invasive" type. For example, Botox injection is a minimally invasive medical act. In that case, do such medical acts also need to stop immediately? When we still have not made clear these several concepts, what reasons do we have to request people to stop such acts immediately? Actually which procedures should stop and which ones need not stop? Who can perform these procedures and who are not allowed to do so? There is one more concept, that is, at what premises can these procedures take place, and at what premises not? I believe the Honourable colleagues here cannot answer questions in these several aspects tonight. Hence, I have reservations about the expression "immediately stop", since we really cannot be sure if we are being high-handed in acting this way. For this reason, we have added words like "the authorities and the industry to jointly discuss the definition of medical procedures involved in medical beauty care, clearly set out the risks in different areas and provide recommended guidelines" in the amendment.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

The original motion has made a number of recommendations on the relevant measures, one of which is "to clearly define high-risk and invasive medical procedures, and require that only professionally qualified healthcare

personnel may carry out such procedures". As I mentioned just now, does it mean that high-risk procedures which are invasive shall be subject to regulation, or, regardless of whether they are invasive or not, as long as they are high-risk procedures, they can only be carried out by professionally qualified healthcare personnel? Besides, many operators in the beauty industry have employed doctors and nurses — who are known as professionally qualified personnel — to be responsible for handling the medical beauty procedures. In this situation, what is meant by requiring the personnel to be "professionally qualified"? Does it impose a requirement for additional professional qualifications which are higher than those of the existing doctors and nurses? Or does it simply mean that only healthcare personnel may carry out such procedures? If it is the former case, what are the criteria? If it is the latter, actually many operators in the industry are already working this way. Besides, how should we classify the areas involved in what is called a medical procedure? Apart from the inclusion of healthcare personnel's technical performance, how should we draw up categories in respect of the authorization, accreditation or handling of the relevant devices and drugs?

The fourth proposed measure in the original motion is "to implement a medical device registration system, and require that only professionally qualified persons may operate such devices". Before any discussion on whether we can distinctly determine the scope, types and nature at which the medical device registration system is directed, can we clearly define which types of devices are used by the beauty industry, and should we implement a medical device registration system in a rush? Furthermore, I think the medical sector in general should be concerned about this issue and must carry out discussion on this subject which is not directly related to the problems triggered by this DR incident. Besides, does the expression "require that only professionally qualified persons may operate such devices" mean that only doctors may operate the devices, or does it mean both doctors and nurses may operate them? Or does it require people with some other professional qualifications to operate them? I wish to bring up these questions for the Honourable colleagues' consideration.

Lastly, concerning the relevant measures, we have added another one proposal in our amendment, that is, "especially forbidding the publication of certain medical beauty efficacies which have not been scientifically and empirically proven in related promotional advertisements to avoid misleading consumers". At present, a lot of advertisements of the beauty industry talk about

"medical and clinical evidence" and "scientifically and empirically proven efficacies", abusing words like "medical" and "scientific" to mislead and even deceive consumers in order to secure business. In fact, there are numerous simple examples, such as lymphatic slimming, catgut-embedding acupuncture slimming, stem cell beauty treatment and so on. We actually do not know if these procedures truly have any scientific and empirical evidence, but such things are cited freely in the advertisements. Having worked for a radio station before, I know the regulation imposed by the electronic media over this matter is more stringent. Advertisers must produce proof before they can cite it in the advertisements. The gate-keeping work of the print media in this regard, however, is poorer. Almost anything written by the advertisers will be passed and allowed to be published. The Administration must seriously handle this issue because these advertisements have really caused harm to many people.

I myself have tried a lot of such treatment before. At that time I was working for the radio station, so the treatment was free. An advertiser took me to try a "fire treatment". In the so-called fire treatment, some cotton threads which had been soaked in some kind of Tibetan medicinal liquor were laid out on my back. A towel was then placed on top, and after that, a fire was lighted above and burned for a few minutes. It was claimed that I could lose weight in such a way. Actually this process can be described as high-risk. With the fire burning like that, in a less serious case, my hair could have been burnt. In a more serious case, my whole body could have got on fire. Fortunately, I ended up safe and sound. I wonder whether this so-called treatment can be classified under Chinese medicine or whether it is subject to no regulation at all, but I know that the lady who administered this treatment for me was definitely not a healthcare worker or Chinese medicine practitioner.

Back to the core issue under today's discussion on the "regulation of the beauty industry". Actually there is the need to clarify, in the controversy evoked by DR beauty group over the regulation of the industry, the root problem concerns neither the healthcare personnel's performance skills nor the high risk involved in the use of the devices. As pointed out by a number of family doctors and dermatologists, the DC-CIK treatment in the incident is known as CINK in the medical sector, and according to the relevant medical literature, this treatment is given to patients suffering from renal cell carcinoma which has spread to other parts of the body. It is only when the patients have become rather desperate that they will receive this high-risk treatment. The beauty

centre, in applying such technology in areas of beauty treatment presumptuously, had already committed a grave mistake. Then the patients' serum, cultured and extracted in the plant of the medical beauty centre, was contaminated by *Mycobacterium abscessus* during the process and eventually injected into the patients' bodies. That was the fundamental reason for the occurrence of such serious septicaemia. Having consulted relevant medical professionals, we learnt that the practice of such stem cell cultivation is, in nature, administration of drugs by injection. Hence, the problem lies with whether the injection of such elements and the relevant production process are subject to the examination and regulation of the Department of Health and have obtained certificates of Good Manufacturing Practices (GMP). These questions, after all, are the fundamental points in this DR incident.

Going back to the matter of enhancing the regulation of medical beauty services, I hope Honourable colleagues and friends who deliver their speeches today can pool their ideas together because this issue is extremely difficult to tackle, but in my opinion, if we rashly request the industry to stop immediately, we just lack justifications in the absence of clear definitions.

I so submit.

MR RONNY TONG (in Cantonese): Deputy President, it can be said that medical beauty care is a fashionable new trend in the affluent capitalist society in the 21st century. However, when this fashionable new trend brought death, many people in society were astonished. Yet, for the Government, it should not feel astonished. The Government should not find the need to take actions only after something bad has happened. The Government should work with foresight rather than hindsight.

Regarding how to handle this issue, I am of the view that the Government and many Honourable colleagues just seem to focus on considering the definition of medical procedure and think about how to regulate the beauty industry from that angle. Deputy President, I find it insufficient to take this as the starting point. In short, no matter how broad the definition given by us for medical procedure is, it will be impossible to cover all those which are generally known as invasive procedures. In particular, in the beauty industry there are a lot of services which are called invasive acts, and there is the possibility, be it big or

small, that such acts will lead to infection. Infection, be it big or small, may cause different degrees of bodily harm or reaction. In serious cases, of course such acts will result in death. Even if the situation is not serious, it does not mean that consumers should bear such risk or harm.

Deputy President, I simply need to cite some simple examples. A beauty procedure which is serious or regarded as high-risk can be injection, and a number of Honourable colleagues have already mentioned this type. It can be piercing earlobes, nostrils, tongues, navels and even important bodily parts. It can also be tattooing. Minimal invasive acts can be haircut, eyebrow trimming and manicure. These can be regarded as invasive acts. Deputy President, I wonder if you remember that in the colonial era, someone died from infection caused by hair wash. Hence, it is incorrect to say that there is no precedent of such a case. The question lies with how we deal with these acts.

If we just focus on whether these acts should be defined as medical procedures, perhaps none of the acts which I have just mentioned should be deemed as medical procedures because they do not seek to enable people receiving such procedures to recover or improve their health. Many of these procedures are simply for aesthetic or personal beauty purposes. If they are not medical procedures, does that mean regardless of how invasive they are or how much risk they entail, we can accept them in silence? If something goes wrong, who will take the responsibility? Deputy President, the matter of responsibility is also worth our consideration. If it is a medical procedure performed by a doctor, the doctor, being an individual person, will not be able to get away. Thus very often, there will not be much difficulty in affixing the responsibility so long as you know who the doctor is. Of course, if you do not even know who the doctor is, that will certainly pose some difficulties. However, as long as you recognize the doctor's face and know his name and the address of his clinic, it will not be hard to affix the responsibility.

Yet it is different for a beauty company for it may close down anytime. Even if it has not closed down, suppose when we try to ascertain the responsibility, we find that its share capital is only \$1,000 or that it is heavily in debt, so it is unable to make any compensation at all. In that case, how can we make the company take its responsibility? Deputy President, I consider that this point is worth our concern. It is also the point which has prompted me to propose the amendment. We need to discuss how to prevent the occurrence of

unfortunate incidents, but at the same time we also need to protect consumers. When something unfortunate has happened, will they be able to obtain compensation for their loss?

Deputy President, as we can see, before the beauty industry is put under regulation, a number of Honourable colleagues have advised that regulation cannot be imposed right away because it will put beauty companies out of business and cause a lot of people to lose their jobs. I agree that this is a crucial and broad issue which requires us to give further thought and attain a consensus with the industry. Nevertheless, before achieving that, should we also consider putting in place some immediate measures so that the Hong Kong Government or the legislation will be able to provide a certain degree of protection to consumers should a similar incident happen tomorrow?

Deputy President, if the beauty industry engages in invasive beauty procedures mentioned by me just now, and such procedures may bring forth a certain degree of risk of infection, in my opinion, we need to work on such procedures. Not only do we need to work on high-risk medical procedures, we also have to be preventive and work on any procedure which has the possibility of getting customers infected. As a result, Deputy President, in my amendment I propose that the beauty industry should take out sufficient risk insurance which I consider as the minimum requirement. The second step may be the Government's formulation of clear and definite guidelines to assist in the prevention of infection. The third step may be regulation by legislation.

A number of Honourable colleagues have mentioned today that regulation by legislation is a highly invasive practice. It is necessary to conduct extensive consultation with the beauty industry and gain a certain degree of acceptance from the industry. Deputy President, I do not have any objection to this point, but I opine that the views put forward by this Council to the Government should be more comprehensive. Apart from taking out risk insurance which I have just mentioned, of course consideration can also be given to setting up a risk fund. Take stock transaction as an example. At present, a fund has been put in place to guard against the closedown of stock brokerages. We may consider from this angle to ensure that consumers will receive appropriate compensation.

Deputy President, when we talk about the fact that the beauty industry may cause harm to customers, leaving them with no channels to lodge complaints or

claim compensation, we should also bring up in passing an issue which has been baffling Hong Kong people for quite a while, which is the matter of pre-paid package tickets. Deputy President, this is another point mentioned in my amendment. I find it timely to bring it up now and request the community to have discussion in respect of the beauty industry. Deputy President, we have heard a number of examples before. Many of the so-called slimming companies closed down shortly after selling package tickets and obtaining the consumers' money, thus making a lot of customers suffer big losses and unable to get back their money in the end. Deputy President, in my view, there is a very simple method, which is freezing such money in a particular separate account and allowing the operators to withdraw it to pay for a certain treatment or procedure only when it is applicable. This is actually a very simple way to protect consumers, and earlier on we have already made such a proposal to the relevant department of the Special Administrative Region Government. In my opinion, in our comprehensive review on what the beauty industry should do to safeguard consumers' interests, we should also take this point into account when we consider how to reduce consumers' risk and protect their rights.

Deputy President, lastly, as a matter of course, we wish to extend our condolences to the deceased and injured as well as their families. Thank you, Deputy President.

DR LEUNG KA-LAU (in Cantonese): Deputy President, in this incident involving the DR medical beauty group, a woman unfortunately died and three other women are seriously ill. More unfortunately, the boss of this company turns out to be a doctor who had been disciplined by the Medical Council of Hong Kong (MCHK) but he does not need to be held responsible for this incident so far. Before a review is conducted by the Secretary, this company may continue to exist for a few years, and this treatment that has not yet been proven by medical evidence can still be marketed. Honourable colleagues have put forward many views, hoping that something can be done. Having listened to these comments, we find that there are divergent views on many issues, such as how to define beauty services and medical beauty care. Friends from some political parties want to impose strict regulation on the beauty industry while some others think that the industry should also have room for survival.

When facing such divergent views, should we focus on addressing the crux of the problem? First of all, I would like to say that it is very difficult to define beauty services and medical beauty care. The difference lies in the persons who proposed the treatments and the related claims. For instance, this is a medical act when a doctor gives his patient some lotions. However, when a beautician gives the same lotion to the customers, this is not regarded as a medical act but a beauty service. So, it is not easy to distinguish the two.

When we discuss whether it is necessary to legislate for the regulation of the beauty industry and consider a division of labor, the interests of different sectors will inevitably be involved. In the medical profession, there are plastic surgeons, dermatologists and general practitioners. In the beauty industry, some members have joined trade unions while some others may have newly joined the industry. If many industry players propose that all things should be handled by medical personnel, I will certainly welcome the proposal because the basic entry requirements are very high. A plastic surgeon requires a minimum of 13 years of training, and there are only 30 to 40 plastic surgeons in Hong Kong; this is definitely a good thing. Even if general practitioners are responsible, they have at least received six to seven years of training. Why do trade unions also agree with the regulation of the beauty industry? After the regulation, there will always be regulators and those being regulated, and those concerned will work out the basic entry requirements to protect their interests. How should a division of labour and the distribution of benefits be achieved? For the time being, I am neutral in this connection and I welcome discussions about how and how strong the regulation should be.

As I have just said, we hope to focus on finding the crux of the problem in this incident and tackle that first. I have talked about the crux of the problem at the beginning. The police have investigated into this incident for more than a month but they have not yet initiated criminal prosecution proceedings against the company and the boss that marketed and provided the services. To a very large extent, any evidence found, will also be very weak, and the persons involved would remain at large. How should we deal with this problem? A number of Honourable colleagues have just said that the Government should only regulate the beauty industry. Nevertheless, many companies claiming to provide medical beauty treatments have actually engaged doctors to provide various treatments. This cannot prevent similar incidents from happening because DR also has a doctor responsible for the treatment. For this reason, in the past decade or so,

the medical profession — Dr KWOK Ka-ki is not present; he has made such a proposal when he was the representative of the profession — we proposed requiring that a majority of the directors of companies in the medical business or claiming to be in the medical business should be medical practitioners. The MCHK adopts a legal basis that requires these directors who are doctors to ensure that the operation of the companies engaging in medical business comply with professional ethics. We have proposed this practice to the Government for some time but it has not carried that out. Thus, I drafted a private bill a few years ago, which eventually went through many procedures. The President of the Legislative Council thought that the bill could be introduced as long as the Chief Executive had given his consent, but, we did not have the Chief Executive's consent in the end.

Would this incident be prevented if the bill was passed? It would definitely be prevented from happening. Since this company known as a company providing medical beauty treatments claimed to be in the medical business and it has engaged a doctor to carry out the treatments, it is a company engaged in medical business. According to the requirements, a majority of the directors should be doctors. If it engages in promotions that are inconsistent with the facts or provides treatments without factual medical evidence, there should be complaints long ago, usually by members of the same industry. Honourable colleagues may not know that the MCHK has received many complaints against doctors lodged by doctors. If these complaints are received, the MCHK will base on the precedents and take disciplinary actions against the doctors who engaged in promotions that are inconsistent with the facts or medical acts without factual medical evidence. The most serious punishment is cancelling the doctors' registration.

There are a few methods to regulate these medical groups, such as establishing a licensing system. What are the elements of a licensing system? There is a licensee or a group of licensees, and a management body. The management body will formulate some codes and disciplinary mechanisms, and this basically applies to all licensing systems. My proposal is consistent with these principles and it is a simpler method under the existing mechanism. The current method adopted by the MCHK for the regulation of doctors is also used. So long as the criteria for the regulation of these bodies are the same as those for the regulation of independent doctors, the purpose of the regulation will be achieved. Why is this method described as simple? It is because we can hand

over to the MCHK complicated issues that we have just discussed such as how to clearly define medical beauty care and beauty services and how medical devices should be regulated and where the procedures should be conducted. A group of professionals in the MCHK have handled these issues for a long time. This method appears to be effective because the existing regulation of private doctors is rather effective. Furthermore, there is consistency as the regulation of private doctors and the regulatory bodies are based on the same criteria.

Regarding this approach, I learn that that the Civic Party will abstain. This approach is not drawn up by me. In other professions including dentists, accountants and lawyers, it is stipulated in the existing laws that the directors or partners of the companies in the related business should be the professionals concerned. The proportion may be different in various professions but the regulation method is the same. The Government has just approved two new hospital sites and it also requires that half of the directors of the board of directors of the hospital should have three years' experience in the management of hospitals within the past five years. There are certain requirements on directors to facilitate the regulation of the hospital.

I think that the Secretary's proposal on the regulation of private healthcare facilities is not really relevant. The impacts are too extensive and the time required is too long. We cannot prevent similar incidents from recurring even if the working group has distinguished between beauty services and medical beauty care. I so submit.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, first of all, I would like to thank Dr Helena WONG for moving this motion. This motion has responded to the recent public concerns about the carrying out of high-risk medical procedures by beauty salons, and brought out such issues as how to regulate private healthcare facilities, and in particular, how to regulate high-risk medical procedures, which are worthy of our discussion and thorough consideration.

First of all, I am going to discuss the existing legislations for the regulation of private medical services. I understand that some Members have said that even if all these legislations are put together, it is not enough; so we need to conduct a review as I have recently announced. The provision of medical

services depends on the co-ordination in various areas, including medical personnel, drugs, devices, premises, medical procedures, advertisements and sales practices, and there are a number of existing ordinances for the regulation of these areas. Under the Medical Registration Ordinance and the Nurses Registration Ordinance, doctors and nurses are required to register with the statutory authorities or council concerned, and they have to comply with the requirements concerning professional conduct. A doctor who has committed a criminal offence or professional misconduct may be subject to disciplinary actions taken by the Medical Council of Hong Kong, and any person who is not a registered medical practitioner may have committed a criminal offence if he carries out any medical procedures. Moreover, the Dangerous Drugs Ordinance and the Pharmacy and Poisons Ordinance regulate drugs and drug dealers; the Radiation Ordinance provides for the use and safety management of radioactive substances and irradiating apparatuses; medical procedures such as human organ transplants are governed by the Human Organ Transplant Ordinance; and some advertisements related to drugs and treatments are regulated under the Undesirable Medical Advertisements Ordinance.

Regarding the regulation of premises providing private medical services, Mr CHAN Chi-chuen has just stressed the importance of these premises. Private hospitals, nursing homes and maternity homes are regulated by the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance while non-profit-making clinics are regulated by the Medical Clinics Ordinance. According to these two ordinances, the private healthcare facilities as just mentioned are required to register with the Department of Health (DH), and they should comply with the requirements of the DH in respect of premises, staffing and devices.

The two ordinances for the regulation of private hospitals and non-profit-making clinics have not been substantively amended since 1960s; they only regulate private medical premises within a limited scope, and they fail to cover day care medical centres and non-medical premises carrying out high-risk medical treatments. This is precisely the case in the DR beauty group incident under which a doctor has carried out a medical procedure in his own premises. Besides, the regulatory criteria of the registered healthcare facilities are only confined to such areas as the premises, staffing and devices.

In the past few years, the community has been concerned about the safety, quality and charging transparency of private hospitals and there are voices asking for reforming the regulation of private hospitals to meet the needs of the times. They also requested the strengthening of the regulatory role of the DH, so as to ensure patient safety and better protection of consumer interests. In order to respond to the demands of the community and the public's expectations, we will proceed to review the regulatory framework of private healthcare facilities.

The recent incident causing one death and serious sickness of three other patients resulting from high-risk medical procedures involving a beauty services company and a laboratory processing health supplies for advanced therapies has aroused public concern over the regulation of high-risk medical procedures advertised as "medical beauty care". Among the three patients who are still hospitalized, one is in serious condition and the conditions of the two have stabilized. The police are currently investigating the incident.

For the background of the incident, the term "medical beauty" has become popular in recent years, and some beauty salons highlighted the use of professional medical technologies to improve the customers' skin, body shape, and even bodily functions. These treatments involve the use of invasive procedures or high-energy devices such as laser, intense pulsed light, micro-needles, Botox injections, hyaluronic acid injections, and so on. These procedures are not necessarily carried out by doctors. Even if they are carried out by doctors, if the procedures do not meet the hygiene and technical requirements, they will also pose potential risks to the customers. In the aforesaid cases, we have noticed that the boundaries between medical beauty care and beauty services have become blurred, and it is difficult for consumers to identify which procedures have certain risks and should be carried out by doctors to protect their own safety.

In view of the above situation, we have set up a Steering Committee on Review of the Regulation of Private Healthcare Facilities to conduct a review on the regulatory regime for the private healthcare facilities in Hong Kong. It will address the safety issues relating to the medical procedures carried out in beauty salons; it will also review and identify, as a matter of priority, high-risk medical procedures and low-risk, non-invasive beauty services, specifying that the former can only be carried out by qualified doctors.

I thank Members for their views and, in the course of the review, we will consider in detail their views about the regulation of medical services and medical beauty care, and we will also examine whether it is necessary to strengthen the regulation of private healthcare facilities such as laboratories involving high-risk medical procedures. We are also preparing to legislate on the regulation of medical devices as a few Members have just raised concerns. Furthermore, we will step up inspections of the beauty salons which may carry out medical procedures and the related beauty advertisements, and enhance publicity and public education.

Deputy President, we are very much concerned about the quality of medical services and public health, and we will review the regulatory frameworks of private healthcare facilities and high-risk medical procedures, so as to impose regulation to safeguard public safety. We have heard the views of the public, and we would like to define medical beauty and beauty procedures first. Some Members said that a year taken to undertake the relevant work is too long, we agree and therefore we will give priority to this area of work, hoping to accomplish the task within a few months.

I would like to listen to the views of more Members in the second part, and I will respond again to the views expressed by Members when I make the concluding remarks. Thank you, Deputy President.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, this medical beauty incident has ultimately caused death and serious sickness of some patients. The Government has treated this incident a bit too lightly as it has only expressed concerns and announced the establishment of a steering committee to review the regulatory measures. As mentioned just now, it was estimated that it would take about a year to conduct a consultation and then consider legislation. When the situation later became increasingly serious, the Government said that a working group would be set up within a few months to draw up guidelines, to clearly define what was meant by beauty services and medical beauty care. These improvements can be described as timely. The authorities should learn a lesson from reacting too slow in the past. In the future, I hope that the Government will not adopt the practice of announcing the establishment of an investigation committee or a review committee whenever certain incident has happened, and

consider that all problems can then be solved. Instead, it should clearly identify the problems and make effective response.

In fact, the problems of the local beauty industry have at least existed for nearly two decades. I still recall that, in the early days, there were problems with slimming tea, slimming menus, slimming electronic devices, and then Botox injections in the past few years, as well as the intravascular infusions in this incident. The nature has become more and more complex, and there are more and more varieties. It is simply too confusing and it is difficult to tell between the truth from the fake. All along, the Government has basically considered these products and services as solely consumer behaviours. If consumers who have used the services found that their expectations have not been met or they are dissatisfied with the services, they can lodge complaints with the Consumer Council and claim compensations or refunds. The Consumer Council can, within their terms of reference, follow up the cases and publish research reports to inform the community whether various beauty methods have real effects and scientific basis; thus consumers have to trust to luck and hope for the best. This incident involves the participation of doctors, but it eventually led to the loss of life and some patients are seriously sick. Therefore, the seriousness of the problem has been highlighted.

Deputy President, when we read newspapers and magazines, we may find that there are numerous beauty advertisements, and nearly one fourth of the contents of a magazine are related to beauty advertisements. A colleague in my office told me that, many years ago, a psychologist had raised the problem concerning the prevalence of slimming and beauty care in Hong Kong. The professor had helped a number of patients who had psychological problems resulted from slimming and beauty care. There were indeed numerous such patients. My colleague has asked the professor why the increasing problems relating to slimming and beauty care have not been extensively reported in the community, and why the reports are not comprehensive. The professor said that this situation is inevitable as many newspapers rely on slimming and beauty care advertisements for survival. Hence, they will not specially report on such incidents as far as possible, and researches on these issues can hardly have any financial sponsorship. I do not know the authenticity of his comments, but we cannot pretend that there are no problems and muddle through.

On this incident, 38 medical societies under the Federation of Medical Societies have jointly issued a statement, requesting the Government to strengthen the regulation of medical procedures relating to the beauty industry. The beauty industry has also issued a statement in the press, stating that this incident has seriously affected the reputation of the trade. Obviously, the medical profession and the beauty industry have identified the problems long ago, and they have already requested the Government to impose regulation through legislation. Nonetheless, the departments concerned have not attached importance to the matter. I think there is a grey area in the definitions of "medical beauty care" and "beauty services", and that is actually where the problem lies. This is the major reason why the Government does not know which department should be responsible. Things will go wrong if we do not distinguish between medical beauty care and beauty services. I think there should be a clear definition between professional medical act and general beauty services.

Deputy President, doctors belong to a traditional profession which very often involve human lives, and there is a long history of medical ethics and professional conduct guidelines of the medical profession. Given the standards set by the professional bodies of the medical profession, I believe that doctors in Hong Kong have a strong sense of professional ethics, and we should not lose confidence in the medical profession due to the misconduct of some black sheep in the industry. This time, some healthcare facilities have widely publicized the use of medical procedure in the guise of beauty services. These procedures are carried out for the sake of reaping profits without subject to strict and serious regulation. As a result, human lives have been endangered. Hence, we must track down the responsible party. At present, high-risk treatments in the name of beauty services have still be carried out in various premises, and the rights and interests of consumers have not been safeguarded; worse still, human lives may be at stake. Based on the experiences of Singapore, beauty treatments must have scientific basis. The treatments can be carried out by doctors when there is scientific basis. If the treatments are still in the experimental stage, they must be reported and then carried out by designated doctors. I think Hong Kong can learn from these experiences and work out appropriate regulatory measures.

Dr Helena WONG's motion seeks to request a clear definition of high-risk and invasive medical procedures, and provides that only medical personnel with professional qualifications can carry out these procedures. They must first

disclose the risks to customers and the authorities must clearly define the responsibilities to be borne by the practitioners should incidents occur, stipulate the qualifications of the practitioners operating the devices, as well as establish a "cooling-off period" for beauty services. These are recommendations to mend the fold after a sheep is lost, and they are not too stringent, I support them personally. As the saying goes, "The law is strong, but the out-laws are ten times stronger", the long-term solution still depends on self-regulation of industry as well as public monitoring, so that the medical profession can give full play to their power, serve the community and protect lives.

With these remarks, Deputy President, I support the motion.

MR POON SIU-PING (in Cantonese): Deputy President, the beauty industry has been developing and changing in recent years and the scope of services has expanded to involve medical acts. Not long ago, some members of the public suffered from septic shock after receiving intravascular infusions provided by a beauty group, and one of the patients unfortunately died. This incident has aroused widespread concern in the community.

According to government information, the two existing ordinances for the regulation of private medical services have not been substantively amended since 1960s, thus they really fail to cope with the regulatory needs of today, in particular, they fail to deal with high-risk medical acts which are packaged and marketed as beauty services, hence greatly lowered the public's alertness. Therefore, I support the Government's comprehensive review of beauty services involving high-risk medical acts to ensure the safety of the public.

I must say that the regulation of beauty services involving high-risk medical acts must be dealt with separately from the regulation of general beauty services. Figures provided by the Census and Statistics Department show that, as of June 2012, 38 000 people are employed in the beauty and body care industry, 40% more than the number 10 years ago. If the regulation of beauty services involving high-risk medical acts and the regulation of general beauty services are not handled separately, the livelihood of many beauty practitioners may be affected.

Deputy President, medical beauty procedures affect the lives and safety of the public, and the Government should expeditiously plug the regulatory loopholes. Yet, I do not want the enhanced regulation to make innocent people suffer and confuse these procedures with general beauty services, affecting the livelihood of the practitioners.

I so submit.

DR ELIZABETH QUAT (in Cantonese): First of all, I am deeply sorry for the lady who passed away after receiving treatment services from a certain medical beauty group, and I wish for an early recovery of the three ladies who are still being hospitalized. Moreover, I wish to take this opportunity to express my sympathy to their families.

Deputy President, I have to declare that a member of my family is in the beauty profession. Due to this reason, I have some knowledge about the beauty industry. I consider that if the title of today's motion on "Regulating beauty industry" is changed to "Regulating high-risk medical beauty care", it can better meet the needs of society because nowadays, the major cause of potential health risks or even fatalities is those high-risk medical beauty treatments.

In my opinion, high-risk medical beauty care can be regulated from three aspects, *viz* scope of services, sales and execution.

In terms of scope of services, the beauty industry has relayed to me that there are now some 5 000 beauty salons in Hong Kong with about 60 000 employees in total. Today, most beauty salons use various devices to provide treatment to customers. Hence, their greatest worry is that a broad-brush approach will be adopted — that is, all invasive medical beauty procedures will be regarded as high-risk medical procedures to be performed by doctors only — such that many services currently provided in beauty salons can no longer be provided in future, particularly services provided with relatively low-risk beauty devices such as low-level laser and intense pulsed light treatments, or eyebrow tattooing and dermabrasion which are minimally invasive. Many examples have already been cited by a number of Members just now. If beauty salons cannot provide the relevant services in future, the room for survival of the industry will

be seriously impacted. Many beauty salons may no longer be able to remain in business, causing unemployment to a large number of beauty industry employees.

Hence, I consider it vitally important that appropriate and clear definitions be given as to what are low-risk general beauty devices and services, what are high-risk beauty services, and what beauty devices can be operated by beauty industry employees with qualifications for operating the relevant devices.

A point worth noting is that given the rapid pace of technological advancement, there are always new products and devices in the market. In general, legislation cannot keep pace with technologies. Hence, certain flexibility must be provided in law so as not to hinder the development of the beauty industry.

Most beauty salons will not and dare not provide high-risk invasive or intravenous medical beauty services. On the contrary, some medical groups would promote their services in the name of "beauty services", while some beauty salons would provide the relevant services through doctors. Hence, I support the requirement that high-risk medical beauty procedures must be carried out by healthcare personnel with professional qualifications. But I have reservation about the existing model adopted in Singapore.

In terms of sales, I consider that the selling of pre-paid beauty services should be incorporated under the law so that consumers can cancel the contracts within a "cooling-off period" in order to protect consumer rights.

When responding to the Public Consultation Paper on Legislation to Enhance Protection for Consumers Against Unfair Trade Practices in 2010, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) had already suggested that contracts on pre-paid selling of beauty and slimming services, and so on, should be included under the legislation.

According to the findings of a survey conducted by the DAB in 2010, over 64% of the respondents were in support of legislation to allow members of the public who purchased coupons for beauty and slimming services, and so on, to rescind the contracts within a specified time limit. Moreover, considering the spate of closures of yoga centres and beauty salons at that time, the DAB further suggested that the Government should study the proposal of setting up a

compensation fund with a levy at certain percentage of the pre-payments. Our survey also indicated that over 56% of the respondents supported the proposal of setting up a compensation fund.

The DAB has conducted another survey recently. According to the findings, nearly half of the respondents who select beauty services through advertisements do not understand either the contents or the risks of such services. We also note that words such as "medical" have been over-used in the advertisements. Hence, I agree that the regulation of the relevant advertisements should be strengthened. I also agree with the proposal in the original motion, *viz* "to stipulate that the industry and healthcare personnel must clearly and fully disclose in advance the risks and possible after-effects to the customers who are intending to receive the treatments", and the proposal in one of the amendments, *viz* "to clearly define the responsibilities that the industry and healthcare personnel must bear after the occurrence of incidents, and establish a reporting mechanism for relevant incidents".

We consider that if a "cooling-off period" for selling beauty services can be incorporated into the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012, which will come into force next year, it will combat unfair trade practices effectively.

In terms of execution, although we often hear the saying, "Women can sacrifice their lives for beauty", as Dr Helena WONG has just said — which I also agree — consumers are most concerned about "beauty" but not at the expense of their lives, that is, they want to be beautiful without jeopardizing their lives. Hence, in parallel with the implementation of regulation, the authorities should conduct a study on how to further enhance the professional training system of beauticians, and promote the professional development of the beauty industry, so that they can provide beauty services to the customers in a safe and professional manner. This can ensure the healthy development of the beauty industry, while women in Hong Kong can receive beauty treatments without worry.

To enhance public understanding on medical beauty care, I have already written to the Chairman of the Panel on Health Services of the Legislative Council requesting that a public hearing be held to invite views from various sectors including representatives of the medical sector and the beauty industry, in

the hope of conducting comprehensive and open discussions on the regulation of medical beauty care.

I also hope that the working group under the Steering Committee on Review of the Regulation of Private Healthcare Facilities must include representatives from the beauty industry who have broad representation, so that they can give views from the perspective of the beauty industry and help formulate a set of comprehensive, practical and feasible guidelines.

With these remarks, Deputy President, I support the amendments proposed by Mr CHAN Han-pan. Thank you.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, in this DR beauty incident which caused one death, one patient has her both legs amputated, and several patients still in critical condition, the presumably beauty treatments were in fact medical procedures in real practice. The quest for beauty has become a life-and-death battle. As human life is most important, safety should always be the first priority.

Deputy President, I have participated in the work of the subcommittee on Lehman Brothers minibonds in the last term of the Legislative Council. To date, I still remember vividly the victims' cries for justice outside the Legislative Council Building during our hearings. While these hideous structured financial products and the so-called medical beauty treatments nowadays are seemingly poles apart, there are actually some stunning similarities. Both involve high risks, yet there is no regulation at all such that they can be sold everywhere. Many a times, both the seller and the buyer do not even know the risks involved with the actual products. Ultimately, innocent members of the public become victims, and some even lost their lives and families in this life-and-death battle.

More importantly, no matter it is the minibonds sold by banks or the so-called medical beauty treatments sold by beauty salons, the seller as well as the owner in the backstage know how to protect themselves. They would ask the kind customers to sign contracts with waiver clauses before accepting the services. I have followed up on many cases of Lehman Brothers victims and visited many banks. I learnt that the consumers would sign the contracts without

even reading the clauses. To save trouble and time, they would sign the contracts without considering such clauses.

But nobody would have thought that they need to sign contracts in order to accept some beauty services, and even when they eventually lost their lives, there is no recourse for compensation. Hence, I consider that the DR incident has highlighted a very important question.

There are unscrupulous businessmen everywhere and new advertisements every day. The district organization I belong to — the Kowloon West New Dynamic — conducted a survey at the end of March this year. Out of the 510 respondents, as many as 41.7% have encountered unfair trade practices; and of these unfair trade practices, 27.7% are related to beauty and slimming services.

Nonetheless, the above respondents only suffered financial or psychological loss at most. Moreover, after such losses, they knew that it was very difficult to seek compensation, and many had given up. But this DR incident is not the same. This tragedy has resulted in the death of one victim and the amputation of legs of another victim. It has gone beyond the question of consumer rights; it is a major incident concerning public safety.

This incident involves medical acts carried out in the name of beauty care. Of course, criminal liabilities have yet to be determined pending further investigations. But obviously the parties concerned, that is, the service providers or the boss in the background clearly know how to protect themselves, while the families of the innocent victims are still seemingly clueless about what should be done. The problems exposed by this incident, which is obviously a fatal medical blunder, are only the tip of an iceberg. These unregulated medical beauty services have already become omnipresent and deep-rooted in society. As matters stand, it is no longer an issue that the Consumer Council or the beauty industry can handle.

Just like the Lehman Brothers incident, the issue is no longer about unfair trade practices of individual business organizations, but the loopholes in the regulatory regime of the entire industry, or even the cause of public interest, and threats to personal safety. The authorities should not take the matter lightly. For instance, in the DR incident, nobody has been prosecuted so far. Is this an indication of some fundamental problems in the regulatory regime?

At present, there is no definition in law as regards the nature of medical and beauty services. As a result, even if mistakes are made by registered healthcare personnel when performing the so-called medical beauty treatments, only those healthcare personnel who actually performed the treatment will bear the responsibility, while the bosses in the background can run away.

Hence, I support that the Government should define the nature of the two types of services stated above expeditiously. Moreover, a corresponding monitoring regime should be formulated expeditiously, so that beauty care services which actually involve high-risk medical procedures will no longer be unregulated and sold freely in the market. If such services are sold freely in the market, both members of the public and the service providers lack vigilance for thinking that those are just common services.

Just like the Lehman Brothers incident, I think the problems arising from this incident can no longer be resolved merely by self-discipline of the beauty industry or the medical sector. I think the beauty industry likewise does not want to lose public confidence or have any more incidents where customers are injured or even killed whilst receiving treatments. Hence, I consider that the authorities should expeditiously ascertain how many services in the market are high-risk medical beauty services. This should be a priority task.

In the meantime, I also support that a "cooling-off period" be provided for the selling of beauty and slimming products, as well as the associated medical beauty services, in order to strengthen public protection. As human life is most important, even the injury of one person is too many. Therefore, the authorities are duty-bound to tackle the problem squarely and act expeditiously, so that no more innocent citizen or consumer will be harmed.

I so submit.

MR LEUNG CHE-CHEUNG (in Cantonese): Deputy President, if you flip through any magazine in the market, you will find that more than one third of the pages are filled with all sorts of advertisements for beauty treatments: glutathione injection, pig placenta injection, ultrasonic cavitation, intense pulsed light hyper-pigmentation treatment, stem cell treatment, combined liposuction and

autologous fat transfer for breast augmentation, and so on — all under the name of beauty care. Beauty care is no longer as simple as doing facials.

In 2006, some beauty salons had injected customers with Hydrophilic Polyacrylamide Gel (PAAG) for breast augmentation. As a result, radical mastectomy had to be performed on six patients. That incident had already exposed the Government's inadequate supervision on the beauty industry back then. At that time, the Government merely tackled the problem by prohibiting the use of PAAG for breast augmentation purposes. It is typically an approach of "treating where the pain is", without healing the fundamental ailments of the beauty industry. Six years have passed since 2006, and the Government has yet to exercise any substantial or effective supervision on the beauty industry. Recently, another incident has happened involving four women who received beauty treatments with intravenous infusions promoted by DR beauty group. One patient has died, and another patient is still under intensive care in hospital.

Deputy President, I consider that many grey areas are involved in this tragedy including the distinction between beauty care and medical treatment, sale practices of high-risk products, regulation of medical devices, distinction between drugs and supplements, control over personnel operating the devices, undesirable medical advertisements, and so on. These grey areas exist because there are loopholes in law, or there is no law to follow at all.

For example, in respect of the regulation of medical devices, the Medical Device Administrative Control System was introduced by the Department of Health (DH) in 2004. Medical devices are classified into four classes based on their risk levels. The importers and distributors can list their medical devices by providing the department with information such as the person-in-charge, functions of the devices, data on adverse incidents, recovery procedure, and so on.

This seemingly perfect system has the major drawback of being a voluntary system, that is, it has no legal effect. How effective can a voluntary system be? Of course, the answer is that it exists in name only. There is still no regulation on high-risk devices such as intense pulsed light or laser slimming devices, and induction devices which are generally used by beauty companies in the market. There is no way the department can tell how many new technological products are on sale and being used in the market.

At present, DH adopts stringent regulation on pharmaceutical products, with control over the persons who take or sell such products. The risk of medical devices is no less than pharmaceutical products. The worst consequence of taking the wrong medication is death; likewise, the consequences of using the wrong medical device are injuries and death. Hence, it is equally important to impose regulation on operators of medical devices.

While healthcare professionals in Hong Kong fall under different professions, there is yet a standardized regulatory and registration system for beauticians. There is no clear requirement on the conduct of beauticians with different experiences and qualifications. Coupled with the keen competition in the industry, some beauticians with no training on the operation of a certain device can only learn to do so through actual operation. Of course, the consumers will be affected ultimately.

In recent years, there are all sorts of so-called medical beauty treatments, and the Government has imposed no regulation on the equipments used by beauty companies as well as the operators. Faced with all those new and innovative beauty care treatments, members of the public can hardly ascertain the associated risks as well as the consequences. I consider that the DH should take absolute charge of the safety and risks of medical devices, so as to allow differentiation by the public. Obviously, an involuntary system is ineffective, and the Government should resort to regulation by legislation.

Deputy President, when the Government proposed to regulate the beauty industry by legislation a few years ago, some members of the industry had expressed opposition on the ground that it would create unemployment for beauty industry employees. I think it is unwise to oppose legislation on this reason. The repeated occurrence of adverse incidents related to beauty treatments, as well as the lack of recourse for ascertaining responsibility have already affected public confidence on the beauty industry. This will definitively have an adverse impact on the development of the beauty industry.

After the DR incident came to light, I note the strong determination of Secretary Dr KO Wing-man in reviewing and rationalizing the existing grey areas. I hope the Government can come up with a legislative timetable for the regulation of medical devices shortly, in order to properly protect the right of the general public.

Last but not least, I sincerely wish that those patients who are still hospitalized will recover soon.

I so submit. Thank you.

MR TOMMY CHEUNG (in Cantonese): Deputy President, every man or woman who patronizes a beauty salon only wants to become more beautiful, rather than having a surgery. But unfortunately, a number of women had received high-risk medical procedures recently for the sake of beauty, resulting in life-long regrets as one patient even lost her precious life while another became maimed. We are all saddened by this incident. On retrospect, most people would know nothing about the so-called DC-CIK treatments these ladies received. As a result of their misplaced trust in the beauty centre and the doctor who performed the treatments, they became victims of a medical treatment without proven medical effects.

As a matter of fact, many similar high-risk medical procedures are now packaged as medical beauty care in the market, in order to circumvent supervision by exploiting the grey areas in law. To prevent such tragedies from recurring, we absolutely concur with Mr Vincent FANG's views that the authorities must end the present state of "lawlessness" by imposing regulation through legislation, differentiating between medical beauty services and beauty services, as well as plugging the loopholes, so that nobody can deceive by misrepresentations anymore. In addition, stringent requirements should be imposed on the provision of such services which are actually medical acts in respect of the qualifications of healthcare personnel, the equipments and devices, the venue, and so on. If such services are promoted and sold by beauty salons or other parties, they must accurately and clearly inform the consumers the contents and risks thereof, and refer the consumers to qualified personnel who will carry out the required procedures. In respect of healthcare personnel who perform the relevant medical acts, they must have obtained the necessary professional qualifications or received the necessary training. In addition, they must comply with the relevant code of ethics and professional conduct, and give prior and full disclosure to the consumers about the associated risks and possible side-effects.

However, we also hope that while strengthening regulation, the authorities should not overkill by introducing a "cooling-off period" as suggested by the

original motion as well as several amendments. If Honourable Members have contemplated the matter, they should know that this tragedy was caused by the lack of regulation on medical beauty services, rather than the absence of a "cooling-off period". We should not over-stretch the hand of regulation such that "the black dog takes the meat but the white dog takes the blame". The introduction of a "cooling-off period" has far-reaching consequences and is highly controversial. That is exactly why the authorities have shelved the proposal when the Trade Descriptions Ordinance was last amended. Just think about it, if consumers can freely cancel the agreements they signed and the transactions they paid by credit card, or return goods and services they have used already, the merchants may easily suffer losses through no fault of their own. Furthermore, this can have adverse impacts on the normal business relationship between the merchants and the banks, as well as the calculation of employees' commissions, and so on.

(THE PRESIDENT resumed the Chair)

If signed agreements can be cancelled, it is tantamount to encouraging the consumers to make purchase decisions without careful consideration. In that case, the entire business environment will fall into utter confusion, and small merchants in particular will have great difficulty in maintaining operation. Take the advanced booking of wedding banquets in the food and beverage industry as an example, deposits are often paid one year in advance. In recent years, many sales for wedding banquets are concluded during wedding exhibitions. For example, in a wedding exhibition, a pre-nuptial couple acting with a "first-come-first-served" mentality may exploit the convenience of having a "cooling-off period", and pay deposits for wedding banquets with, say, 10 or 20 different restaurants. Then they go home, consider their options, and make a final choice. Afterwards, they demand a refund from all the other 10 or 20 restaurants one by one. Originally, dozens of wedding banquet deals have been concluded by those restaurants, but now they must look for new bookings. The restaurants suffer double loss because they have to pay a participation fee for the exhibition and the business deal is lost. How can the industry make preparations and ensure risk control if all consumers can freely demand a refund for deposits?

President, I will now respond to some of the amendments in particular. Mr CHAN Chi-chuen suggests that joint discussion should be held by the authorities and the industry in order to clearly define high-risk and invasive medical procedures. He also suggests that the publication of certain medical beauty efficacies which have not been scientifically and empirically proven should be forbidden in related promotional advertisements to avoid misleading consumers. I consider these proposals very worth supporting. In particular, the authorities must enhance communication with the industry in order to improve the current situation effectively and plug the loopholes.

Separately, one of Dr LEUNG Ka-lau's amendments makes the additional suggestion of amending the Medical Registration Ordinance in order to strengthen professional regulation in relation to medical business. We consider that this proposal is specifically targeted at the problem exposed by this tragedy. While it is also worth supporting in principle, regrettably, his amendments still retain the "cooling-off period" suggested by the original motion. Hence, the Liberal Party cannot support it.

President, I so submit.

MR WU CHI-WAI (in Cantonese): President, the Democratic Party proposes today that the beauty industry should be regulated, and in particular, clear definitions on medical beauty care should be provided in order to ensure protection on consumer rights.

Just now, many Honourable colleagues have already recounted the incident in their speeches, and clearly stated support for the need to regulate the medical beauty industry regarding the relevant definitions and arrangements. That should be a matter of general consensus. However, we consider that the crux of the entire incident should instead be the "cooling-off period" arrangement. On 16 July this year, that is, the second last day in the previous term of the Legislative Council when the Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012 was enacted, the provisions relating to the "cooling-off period" requirement had been taken out. Just now, Mr Tommy CHEUNG said that as the "cooling-off period" requirement was controversial, the Government finally decided to take out the "cooling-off period" arrangements provided for in the original bill. However, it is clear from the present DR beauty incident that a

practical need can be served by the "cooling-off period" arrangement. Notwithstanding the unique state of operation of individual industries which merits further study in respect of the relevant details, we cannot preclude the need for introducing the "cooling-off period" arrangement for individual industries.

As a matter of fact, similar "cooling-off period" arrangements are in place in Canada, the United Kingdom, France, and even many European countries. The Consumer Council also strongly supports the imposition of a "cooling-off period" on consumption with pre-payment, in order to ensure protection on consumer rights. It is clear that invasive medical procedures as well as the associated medical arrangements are involved in the DR beauty incident. In fact, when members of the public consider whether a particular course of treatment recommended by their doctors should be accepted or not, they would invariably need to seek the opinion of another doctor, so as to ascertain whether their decisions are reasonable, or whether the expert opinion provided by their own doctors is really appropriate for their own physical conditions. According to my personal experience, even my own family doctor would suggest that we seek a second opinion when it comes to complicated medical procedures. However, in the course of such consumption with pre-payment, the consumers are often denied such a choice because both parties may have entered into service contracts amounting to several tens or even hundreds of thousands of dollars. Once the contracts have been signed, no procedure is available for the consumers to cancel the signed contracts even if they subsequently have any doubts about the treatments, or they know that the treatments are not suitable for them after enquiry.

The adverse impact of consumption with pre-payment has already been clearly illustrated in many discussions held previously in the Legislative Council, which is also what we consider to be one of the important issues relating to this DR beauty incident. The enacted legislation will come into operation next year. In our previous discussion, we expressed the hope that the Bureau could re-submit its proposal on the "cooling-off period" requirement as soon as possible, so that the authorities and the Legislative Council can hold detailed discussion and debate on how to protect consumer rights and formulate a policy on the "cooling-off period" requirement for consumption with pre-payment.

I very much hope that we can learn from the disheartening lessons of this DR beauty incident. This incident has resulted in the death of a person who

received the beauty treatments, and another consumer must live with lifelong disabilities. This is what we are most unwilling to see. Apart from differentiating between medical procedures and beauty procedures, the imposition of a "cooling-off period" is absolutely indispensable, so that consumers who have purchased all sorts of beauty care services with pre-payment can have enough time to ascertain whether the impending treatments are suitable for them. In fact, ordinary consumers can hardly tell whether some recommended medical procedures or beauty procedures are suitable for them or not, and the imposition of a "cooling-off period" can provide an optimal buffer between consumers and service providers.

Regarding the worries just mentioned by Mr Tommy CHEUNG, they can actually be resolved through the details of regulation. For example, there is the concern about what should be done about credit card transactions, which is also a common everyday problem nowadays. Normally, credit card transactions will not be posted immediately. Hence, such transactions can be handled after the relevant situation has been finalized. This can resolve the problem. Therefore, after today's debate, I hope the authorities will expeditiously submit the relevant arrangements for imposing a "cooling-off period" to the Legislative Council for detailed discussion, so as to protect consumer rights.

Thank you, Members. Thank you, President.

MR GARY FAN (in Cantonese): President, perhaps it was because many male colleagues had gone for dinner just now when the debate first started that Dr Helena WONG was worried that men might not be concerned about this matter. That is of course not the case. As the Chinese saying goes, a woman will make herself beautiful for her lover. I think nobody wants to see their family members, girl friends or wives suffer physically or financially, or even lose their lives as in the present DR incident, as a result of receiving these high-risk beauty treatments.

Beauty has a price, but life is priceless. Today, a lot of good suggestions have been made by many Honourable colleagues in the hope of helping the Government to focus on imposing regulation by legislation expeditiously, and improving its monitoring on the beauty industry in respect of its conduct and services, as well as various problems which have emerged in the past.

Given that the beauty industry is engaged in business activities and different specialisms are covered under medical beauty care, there is now a great consensus in the community that the beauty industry and medical beauty care must be clearly differentiated. At present, treatments in the market using laser, intense pulsed light, high frequency ultrasound, drugs, and so on, are all invasive medical acts. Only registered doctors and dentists with their professional expertise and experience can provide the appropriate medical treatments.

In case any doctor has breached professional conduct or provided sub-standard treatments, he should of course be supervised and subjected to disciplinary actions by the relevant professional bodies. In Hong Kong and many advanced places and countries, beauty services or the beauty industry has been packaged as a widely acceptable merchandise. But as we can see, many beauty companies have taken the opportunity to introduce high-risk medical procedures which have yet to be widely accepted in the medical profession, and some are even unheard of or not clinically tested. Marketed under advertisements considered to be misrepresented or exaggerated with such claims as no side benefits, these treatments are tested on the consumers as guinea pigs, bringing profits to the operators.

While Hong Kong often claims itself an international metropolis in Asia, there is still no proper legislation to regulate the beauty industry; instead, the Government can only rely on the Code of Trade Practices for the Beauty Industry (the Code) which has no legislative or deterrent effects, and hope that the beauty industry can have self-discipline and comply with the Code. However, after the DR tragedy, the community and public opinion all consider that insufficient efforts have been made by the Government in this regard.

President, it is clear from the paper submitted by the Government or Secretary Dr KO Wing-man to this Council that the existing Hospitals, Nursing Homes and Maternity Homes Registration Ordinance and the Medical Clinics Ordinance have undergone no substantive amendments since the 1960s. Moreover, ambulatory medical centres and non-clinical facilities where high-risk and complicated medical treatments are performed are not covered by these two ordinances.

Although the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes issued in 2003 has set out various requirements on private

healthcare facilities regarding governance, risk management and so forth, it only applies to private hospitals, maternity homes, nursing homes for the elderly, renal dialysis centres, treatment centres for drug dependent persons and day surgery facilities, and its jurisdiction does not cover beauty salons and the so-called medical beauty centres which emerge in recent years.

The Code is even more ridiculous. For example, suggestions about basic standards in professional conduct include, firstly, punctuality and politeness; secondly, presentable appearance of staff and tidiness of workplace. Are those aspects related to professional conduct? Can these guidelines help beauty industry employees handle the problems we are now concerned about? Obviously, the answer is no.

In addition, the Code suggests that beauty industry employees should understand and comply with various statutory requirements, standards and safety measures in relation to the beauty industry. But ironically, how can beauty industry employees comply with the standards of the beauty industry when comprehensive and sound legislation, requirements and standards pertaining to the beauty industry have yet to be formulated?

Hence, President, I concur with the salient points proposed by Honourable colleagues including Dr Helena WONG and other Members in the original motion as well as the respective amendments today, in terms of regulating sales practices, establishing a trust fund, and imposing penalties and sanctions under the regulatory regime, and so on. All these can help the Government target and resolve the problems in its future regulation of the conduct and services of the beauty industry.

Therefore, I support the original motion, as well as the amendments proposed by Dr Joseph LEE, Miss Alice MAK, Dr KWOK Ka-ki, Mr Ronny TONG and Dr LEUNG Ka-lau, in order to prevent the recurrence of tragedies in future.

President, I so submit.

MR TANG KA-PIU (in Cantonese): President, as mentioned a number of times earlier, beauty care is an exclusive preserve of women, but there have been more

and more advertisements and services which involve men as well. There can be an avalanche of advertisements even on whether men's eyes look sharp or not. Today my speech mainly focuses on advertisements.

I have some weekly magazines at hand. One weekly magazine is not available until tonight, so I do not have time to buy it. I have bought a total of five weekly magazines for this week. As I have counted, the five weekly magazines have published a total of more than 90 advertisements of beauty service groups. When I was walking to the Legislative Council after I got off the train at the MTR Admiralty Station today, I took a count in the MTR station as well. There were more than 30 advertisements of beauty service groups. Prevalent everywhere, these advertisements seem to be hypnotizing us every day: you are not pretty enough; you are not slim enough; you are not fit enough; your eyes are not sharp enough; other people are still so fit at the age of 40 and other men have the six pack abs, but what about you? All these completely crush our self-confidence. What should we do? To buy back our self-confidence, we will have to patronize these beauty service groups.

I especially wish to talk about the issue of advertisements because the advertisements of these beauty service groups contain a lot of words which claim the availability of courses of treatment. Names of such groups carry the word "medical". There are doctors acting as consultants. Whether it be the eyes, ears, mouth, nose or feet, courses of treatment are available. They have been tested and recognized by professionals. Moreover, most of them provide oral solutions and use certain devices or injection equipment. Such advertisements seem to say that the consumers are sick and they can treat their illness. This is consumerism in the extreme.

I particularly wish to speak on advertisements. For instance, in this weekly magazine in my hand, the advertisement has published a doctor's photo. This doctor is indeed awesome. Having set up hospitals in Southeast Asia and the Mainland, he especially came to Hong Kong to attend to the consumers' problems and administer Botox injections for them. This is tantamount to practising medicine across the border. I believe the authorities must address the question as to whether this amounts to unlicensed practice. Should this type of advertisements be regulated? Actually there is legislation which imposes regulation on them.

Another example is an advertisement of breast enhancement, which is for women only. It specifies that there is no need to undergo any surgery, receive any injection or take any drugs. It does not seem to be related to medical treatment, yet read it carefully: "one-step enhancement based on scientific research, activating hormonal secretions in the body". Regarding hormonal secretions, it is provided in Schedule 4 of the Undesirable Medical Advertisements Ordinance that oral medicines related to hormones are subject to regulation. Has the Government exercised regulation then?

I have counted that there are a total of 90 advertisements in the magazines mentioned by me just now, of which 55 carry this kind of wording, for example, "doctor", "medical treatment", "therapy", "medical science" and so on. With such wording, will the Government take the initiative to impose regulation? Without such wording, will the Government refrain from imposing regulation? If they want to evade regulation by the Government and deliberately not using such words but the treatment or drug is actually invasive, will the Government exercise regulation?

Although the Undesirable Medical Advertisements Ordinance has been put in place, according to the past records we have checked, the number of prosecutions was almost zero. Of course, I cannot put it this way because there were two cases of prosecution last year. Has the Department of Health (DH) not done its job properly, or is the legislation inherently insufficient and unable to deal with the matter? The Administration must give an explanation.

The "cooling-off period" mentioned earlier is closely linked with advertisements. Faced with an avalanche of advertisements, you enter a shop with the original intention to receive a facial treatment only, but they take off your clothes, take away your identity card and pressure you to get a Botox injection. What can you do? The introduction of a "cooling-off period" will enable consumers or business operators to calm down. The operators can no longer do business with such tactics. Neither will they use such exaggerated and false I dare not comment on that because what is said in the advertisements has not been proven yet, that is exactly where the problem lies. As in the case of health food products or Chinese proprietary medicines, if traders claim that there is any kind of efficacy, would they please approach the DH's officers on my left to record it on file and have it tested by the authorities. If the test result is that it does not produce such an effect or it is even of the high-risk type, at least we will

be able to affix the responsibility. However, I do not find that such steps are currently taken to deal with this kind of advertisements. As a matter of course, some advertisements even directly publish the doctors' names and photos. I wonder if the Administration will regulate them.

Hence, in view of the fact that the beauty service groups have spent so much money on the present advertisements and hired so many film stars, you will know that they make huge profits. Moreover, as human bodies are involved, I do not understand why the Administration still does not address the issue.

Let us not dwell on the money matter, but let me briefly talk about pecuniary losses. On 13 February this year, the Consumer Council criticized a beauty service group by name, which was Q&A Plus Health Spa. The amount involved was \$8.5 million. How many complaints were there? There were 61 cases in total, with each complainant suffering a loss of \$140,000 on average. Setting aside the health risk, if we just look at the amount of money, it was by no means a small amount, and this sum might as well be invested to buy some structural financial products. Hence, no matter what, this industry must be put under regulation. I opine that the Administration must rack its brain and ponder on the issue of advertising.

On the other hand, today a number of Members have mentioned the implementation of a "cooling-off period". As I said just now, the introduction of a "cooling-off period" will enable business operators and consumers to calm down. For example, if I have to undergo a high-risk operation, before or even after payment, I can still go home and reconsider the matter. At least I can think about several questions: Is there any department regulating such a drug (*The buzzer sounded*) operation or medical device? Is the person administering the treatment for me a suitable person? Is the venue appropriate? Does the company have a proper structure? Lastly, has it exaggerated the relevant efficacy or even hidden any risk? If a "cooling-off period" is provided, I will be able to think it through and check it up. I will also have time to inquire of the DH about it.

Thus, here let me repeat what the Hong Kong Federation of Trade Unions has mentioned in the last session of the Legislative Council, that regarding the Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012, we support the provision of a seven-day "cooling-off period" and request the Government,

especially the Commerce and Economic Development Bureau and the Food and Health Bureau, to jointly introduce legislation. Thank you.

DR LAM TAI-FAI (in Cantonese): President, I am sorry.

President, as Mr TANG Ka-piu has said, the love of beauty is a human nature, and it is not restricted to women only. Hence, there are all sorts of beauty care services in the market with an increasing trend of diversity and ever-changing sales tactics. Nowadays, beauty services are not simply about facial care and beauty. In recent year, medical beauty care, or even "micro-cosmetic surgery" has become very popular. Of course, such treatments which make use of medical devices and medical procedures will invariably involve certain risks.

All along, the SAR Government has not imposed sound regulation in this regard, and this is a very serious failure. Recently, an incident has happened involving intravascular infusions treatments provided by the DR medical beauty group, with the consequence that four women sustained septic shock, and one of them had even passed away unfortunately. It is not until this incident that the Government has finally sounded the alarm amidst the strong demand in the community for regulating medical beauty care.

Besides the issues of safety, Hong Kong's beauty industry has all along been criticized for its unfair trade practices. Hence, the Government should comprehensively review this long-standing problem in the beauty industry, in order to protect the consumers and promote the healthy development of the industry.

After the incident, the Government has acted swiftly by immediately establishing the Steering Committee on Review of the Regulation of Private Healthcare Facilities (Steering Committee) to conduct a review on the private healthcare system and define what is meant by high-risk medical procedures. It is expected that the Steering Committee would submit its report within one year. I hope that its report can be submitted a bit earlier.

Dr Helena WONG's original motion suggests that "this Council calls on the industry to immediately stop high-risk invasive medical acts", but there is yet a

clear definition of the meaning of "high-risk" now. Hence, I hope that in the vacuum period before the Steering Committee submits its report, the Government must impose special regulatory measures for protecting the consumers in order to prevent the recurrence of tragedies.

President, to target beauty companies providing medical treatments, the Administration can consider formulating some guidelines first to specify the beauty treatments which are classified as high-risk, and can only be performed by specialist doctors in specified premises. In addition, the Consumer Council can play a support role by studying and collating complaints involving medical beauty services, so that a blacklist can be compiled for reference by consumers.

Moreover, I also hope that before any clear regulation can be imposed, the Government should step up publicity and caution the consumers to choose medical beauty services carefully and thoroughly understand the risks involved in various treatments, in order to protect their own interests.

President, as just mentioned by Mr TANG Ka-piu, many of the words and expressions used in beauty advertisements are greatly exaggerated and vague. It can easily make the consumers lower their vigilance and hence, underestimate the risks involved. For example, the DR medical beauty group in the recent blunder runs an advertisement entitled "Perfect face shape — the golden proportion" on the Internet about a beauty care technique. I find the copy very funny, which reads as follows, "..... with the currently available filler technology in beauty care, the parts which should be longer will be lengthened, the parts which should be higher will be heightened, the parts which should be smaller will be trimmed, and the parts which should be fuller will be filled." President, don't you agree that these claims are exaggerated? I consider it necessary to impose regulation on the use of similar words and expressions in beauty advertisements.

Furthermore, filler technology in beauty services requires an injection procedure, and according to the regulatory standards in Singapore, filler injection is a minimally invasive procedure. At present, many beauty salons would collaborate with doctors in carrying out medical beauty treatments. I believe — and I am also told by many people — that perhaps not all of those doctors possess the professional qualification on reconstructive surgery. We should make reference to overseas experience and strengthen regulation by stipulating that only professionally qualified doctors can carry out the relevant treatments.

In fact, besides the stringent guidelines adopted in Singapore, the regulation imposed by Korea, our great neighbour and the "nation of plastic surgery", is far more clear-cut than Hong Kong. One of the assistants under my employment possesses an extensive knowledge about Korea, and has collected a lot of information for me. According to such information, although Korea has yet to impose regulation on medical beauty care or the plastic surgery industry separately, there is an obvious distinction between beauty and medicine, and any undertaking involving medical procedures is subject to regulation by the medical law. Even laser hair removal procedures must be carried out in licensed plastic surgery centres or clinics, and a licence is required for the acquisition or sale of injurious devices.

President, the traditional beauty industry in Korea is regulated by the public health supervision law which specifies that companies in the beauty industry are only allowed to perform facial, head and skin care procedures. Moreover, the use of drugs and injurious tools and devices are prohibited, and they cannot operate any businesses involving medical procedures. Otherwise, they have breached the law. Measured by the standards in Korea, DR medical beauty group's act of selling high-risk medical beauty services to customers already constitutes a serious breach, even though the services are carried out doctors upon referral.

The thriving and orderly development of the medical beauty industry in Korea is mainly attributed to the good techniques, as well as the stipulation of clear rules and regulations. In Singapore, clear definitions have also been provided in respect of medical beauty treatments with different risk levels, resulting in healthy development of the industry.

I consider that medical beauty care is a promising industry in Hong Kong with good development potential so long as it is monitored by a sound and proper regulatory regime. The industry can only rebuild its reputation if it has rules and regulations for compliance, which can also help protect consumer rights. Otherwise, there are bound to be black sheep in the industry. In that case, there is no guarantee for the safety of customers who receive these treatments. In the worst scenario, similar fatal incidents as this tragedy will occur. Nobody wants to see the recurrence of similar incidents.

President, I so submit.

MS CLAUDIA MO: President, it is a huge pity that we need tragedies of that magnitude for us to start or rather re-start considering proper legislative measures and controls on the issue. I am naturally in support of the original motion and quite a few amendments that follow.

Now, I am not going to repeat all those And-the-Pope-is-Catholic kind of arguments to save time. But I am in particular support of the suggested cool-off period because it is absolutely necessary. Guys may not know that for a fact when it comes to beauty treatments, it's something very personal and something very psychological. It has got a lot to do with a person's — a woman's in particular — self esteem. So it is very much needed as it involves a lot of, plenty of, emotions, and it very often, involves a lot of money as well. Now having said all that I would urge this Council not to particularly demonize the trade of beauty treatments. You would have noticed that I didn't mention the word "medical" because I know for a fact that there are more than one proper medical beauty clinics around. So let us not, you know, try to all of a sudden persecute all the dermatologists who are serving as medical beauty doctors, right? I was slightly taken aback by some of the speeches that tend to say "bad news is good news" and practically everyone in the trade is bad, and so on. That sort of comments is really unnecessary and I was quite pleased to hear the speech by my Honourable colleague who spoke just now. I think Hong Kong should seriously learn from the Korean experience in this regard. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Dr Helena WONG, you may now speak on the eight amendments. The speaking time limit is five minutes.

DR HELENA WONG (in Cantonese): President, I must first of all thank the eight Members who propose amendments to my motion. I greatly welcome the amendments proposed by Members, in particular, many of them basically agree that there is a need to introduce regulation on the beauty industry. Apart from textual improvements, many amendments suggest measures for the consideration

of the Government and this Council in respect of strengthening regulation, which include Dr Joseph LEE's proposals about the regulation of premises, laboratories and clinics; Miss Alice MAK's proposals about the regulation of advertisements, publicity, education, as well as stepping up inspection; and Dr KWOK Ka-ki's proposals about introducing a licensing system as well as a demerit point system. Other Members have made suggestions on introducing medical insurance, or even stipulating that medical beauty groups must have more than half of their directors being registered medical practitioners. I think the Bureau should consider and study these suggestions in the context of the forthcoming report of the Steering Committee, so as to formulate the most effective regulatory regime which caters for the conditions of Hong Kong.

First of all, I want to respond to some views expressed by Mr CHAN Han-pan and Dr Elizabeth QUAT on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). They suggested that the reference to "..... the industry to immediately stop high-risk invasive medical acts" in the original motion be deleted, and I find this very regrettable. They said that they were unwilling to introduce the Singaporean model in a broad-brush manner.

However, if they would recall, I made the suggestion to Secretary Dr KO Wing-man at the special meeting of the Panel on Health Services that a detailed comparative study be conducted on the Singaporean model *vis-à-vis* those in various countries such as Australia, Canada, the United Kingdom, the European Union and the United States, so as to ascertain what kind of regulatory framework is more suitable for Hong Kong. Hence, there is no assumption on adopting the Singaporean model in this motion I propose.

Therefore, I consider that their amendments would seriously undermine my original motion and stall the progress of regulation. Their amendments which propose conducting a study on this, another study on that, and even further studies are tantamount to disregarding the lives of the people because nothing should be done now before the completion of studies, except that the public should be educated gradually. That is a highly irresponsible course of action to propose.

But when it comes to being irresponsible, the DAB is also joined by Mr CHAN Chi-chuen. I am dumbfounded by his amendments today. According to Mr CHAN Chi-chuen, he suggested that the expression, "..... the industry to

immediately stop high-risk invasive medical acts", be deleted because without any clear definitions now, how can this be done? No, we cannot; in that case, we might as well wait until everything is made clear. That is the same attitude. What I am now talking about is that high-risk invasive medical acts be stopped immediately, not some low-risk acts such as clearing up pimples or blackheads. What we are talking about is certain high-risk acts that may be fatal.

Of course, the laws have yet to be formulated, and we can only "call on" the co-operation of the industry. It means that the industry should act on conscience and with self-discipline. If they give certain injections to their customers, but not knowing the consequences, or if they know clearly that the injections are meant for terminal cancer patients and risks are involved, should they act on conscience and stop such acts even if there is no formal regulation now?

Nonetheless, I am surprised that Mr CHAN Chi-chuen opposed this proposal. Nonetheless, I am all the more shocked that he even opposed the introduction of a medical device registration system, when even the public officials in attendance now have also talked about regulating medical devices and introducing a registration system.

Nonetheless, I think the most serious problem is that Mr CHAN Chi-chuen, you have not declared your interest. Your election partner, Miss Erica YUEN, operates an online business selling beauty products, while your boss, Mr Stephen SIU, operates Unlimited Creativity Holdings Limited with businesses in Hong Kong and Macao relating to beauty products and beauty clinic services. But throughout your speech, you have not disclosed your interest related to the beauty industry.

Hence, I find this very regrettable because your speech shows that you are more pro-establishment than the pro-establishment camp, and you are more pro-establishment than the Secretary. Compared to the amendments proposed by Mr Vincent FANG who represents the business sector, your amendments are more biased towards the interest of the beauty industry. I find it very regrettable that you even opposed the medical device registration system.

President, that is all I wish to say.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I would like to thank Members for their valuable views on the motion; many of their comments are worthy of our consideration. In my concluding remarks, I would like to talk about the current legislation regulating the beauty industry and doctors' conduct, the direction of our review, the experiences of overseas countries in the regulation of private healthcare facilities and high-risk medical procedures, as well as our interim measures.

Regarding the current legislation regulating the beauty industry, I have stated very clearly that there is no specific legislation to regulate the beauty industry but consumers are still protected under the general consumer protection laws, which include the Consumer Goods Safety Ordinance, the Unconscionable Contracts Ordinance, the Supply of Services (Implied Terms) Ordinance and the Sale of Goods Ordinance. Regarding the concerns of Dr Helena WONG, Mr Ronny TONG and Mr CHAN Han-pan about the sales practices of the beauty industry, particularly the most common pre-paid practice in the beauty industry, a number of Members have just mentioned that a new ordinance was passed in the last session of the Legislative Council, that is, the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012. The Ordinance prohibits specific unfair trade practices, such as false trade descriptions in respect of services, aggressive commercial practices and improper acceptance of payments. If the beauty industry violates the provisions of the Ordinance in the sale of products or services to customers, it commits an offence. We believe that the new legislation will effectively prohibit from the source various unfair trade practices of public concern. The Commerce and Economic Development Bureau is co-ordinating in full swing the relevant departments and agencies in preparation for the implementation of the legislation, and it is expected that the new system will be effective next year at the earliest. The Bureau will closely monitor the effectiveness of the new legislation, and fully consider other consumer protection mechanisms mentioned by Members in this motion debate, which will form the basis for more detailed and focused examination of issues such as the "cooling-off period" arrangement.

Regarding the concerns about the regulation of beauty devices raised by some Members, including Mr CHAN Han-pan, Mr LEUNG Che-cheung and Mr Vincent FANG, the Government has implemented the Medical Device Administrative Control System in 2004, under which medical devices are classified into four classes based on their risk levels. A list of medical devices

proven to comply with acceptable safety and performance standards is available for public reference, which also include some medical devices used for beauty purposes. Since 2005, the Department of Health (DH) has been monitoring the safety alerts and recall notices on medical devices issued by overseas countries, and has relayed the relevant messages to the parties concerned. I was in private practice a few months ago and I had constantly received messages from the DH on information concerning the safety of medical devices in overseas countries. We are, at the same time, preparing for the legislative work. Basically, we have decided to regulate medical devices based on their risk levels. Legislation will be enacted to regulate the safety, effectiveness and quality of these devices, and only those products which comply with the standards can be registered and introduced to the market. If the devices used by beauty salons are classified as medical devices, they will be subject to the regulation of the proposed legislation. The manufacturers and the industry must comply with the registration requirements, the relevant regulatory measures and the medical incident reporting system.

In respect of this incident relating to high-risk medical procedures involving a beauty salon, as Dr LEUNG Ka-lau and Dr KWOK Ka-ki have respectively mentioned, there are existing laws in Hong Kong to regulate doctors' professional conduct. According to the Medical Registration Ordinance, medical practitioners must register with the Medical Council of Hong Kong and comply with the requirements on professional conduct. Medical practitioner who commits a criminal offence or a professional misconduct can be disciplined by the Medical Council of Hong Kong, in the form of giving warnings or reprimand and in more serious cases, removal from register. If any treatments offered by beauty salons are deemed as medical procedures, and the person carrying out such procedures are not registered medical practitioners, they may be charged with illegal practice of medicine.

As I have said in my opening speech, and mentioned by Mr Gary FAN and Mr POON Siu-ping, the two existing ordinances on the regulation of private hospitals, nursing homes, maternity homes and non-profit-making clinics are rather restricted in scope and criteria, and have not undergone substantial amendments in the past 40 years or so though the private healthcare market has experienced material changes during the period. For instance, there are now an increasing number of day care medical centres and non-clinical medical facilities providing high-risk medical procedures. The public is also increasingly

concerned about the safety, service quality and charging transparency of private healthcare facilities, and they have demanded to strengthen the DH's regulatory role. To meet with the demands of our present society and the expectations of the public, we have started reviewing the regulatory framework of private healthcare facilities, so as to ensure that the safety of patients, the standards of medical services and the interests of consumers are better protected.

Apart from the existing statutory regulatory framework, the DH issued a Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes in 2003 to set out the standards of good practice regarding governance, quality management, patient care, risk management, clinical standards and so forth. Compliance with the requirements is a condition for the registration and re-registration of private healthcare institutions.

Regarding the existing regulation on high-risk medical procedures, the Government mainly regulates the professional conduct of the persons who carry out the procedure, that is, doctors. On the contrary, if the persons who carry out the procedure are not registered medical practitioners, they will commit a criminal offence. In addition, if the high-risk medical procedures involve medication, the use of radioactive substances or irradiating apparatuses, they are regulated under relevant ordinances. If the high-risk medical procedures are carried out in designated private healthcare facilities (such as private hospitals), they will also be regulated by law.

Nevertheless, as Dr Elizabeth QUAT has just stated, this incident reminded us that it is necessary to consider the introduction of a more specific and comprehensive regulatory framework for the regulation of high-risk medical procedures, so as to safeguard public safety. In particular, we should prevent some non-healthcare facilities such as beauty salons from continuously using the term "medical beauty", without giving regard to the risks of certain treatments and the need for safety measures.

As I have said earlier, we have set up the Steering Committee on Review of the Regulation of Private Healthcare Facilities to review the regulatory regime for the private healthcare facilities. I am Chairman of the Steering Committee, and there are 16 unofficial members and four ex-officio members. The unofficial members come from different sectors of the community, including healthcare professions, academia, regulatory bodies, patient groups and Consumer Council.

Having heard the views of different sectors of the community, the Steering Committee will make recommendations on the mode and system of regulation of private healthcare facilities, and the first meeting will be held on 2 November.

Specifically, the scope of review of the Steering Committee includes whether it is necessary to expand the scope of the existing regulation of private healthcare facilities, whether the criteria of regulation should cover more elements of medical services, and whether it is necessary to amend the penalties imposed on private healthcare facilities. The Steering Committee will also give priority to differentiate between high-risk medical procedure and non-invasive beauty services, and make recommendations on the regulation, specifying that the former can only be performed by qualified doctors who must inform patients of the risks involved in detail. This approach has been mentioned by a number of Members and endorsed by them.

The Steering Committee will be underpinned by working groups to conduct in-depth research and work out options of way forward on task-based topics. The first working group to be set up would be tasked to differentiate between high-risk medical procedures and low-risk, non-invasive beauty services, and formulate guidelines as interim measures pending legislative enactment. This indicates that legislation will eventually be enacted. Members are also concerned about the composition of the working group. The working group will comprise representatives from relevant medical specialties (specifically, plastic surgery and dermatology), practitioners in the beauty industry and representatives of consumer groups. This has responded to the proposals made by Miss Alice MAK and Mr CHAN Chi-chuen. The working group is going to hold the first meeting shortly. In addition, we will explore the possibility of setting up more dedicated working groups to review other priority areas, such as regulation of premises, including laboratories and clinics, involved in processing health products, as mentioned in the amendments of Dr Joseph LEE and Mr CHAN Chi-chuen.

The whole review of the regulation of the private healthcare facilities is expected to be completed within a year, and we will then consult the public on the recommendations of the Steering Committee, and start the legislative process depending on the situation.

As I have just mentioned, the first working group for clarifying the differentiation between medical procedures and beauty services will formulate the guidelines in a few months. A number of Members have remarked that we should refer to overseas experiences in the regulation of private healthcare facilities and high-risk medical procedures. In particular, Dr Helena WONG proposed at the last special meeting of the Panel on Health Services, and Dr LAM Tai-fai and Ms Claudia MO have respectively mentioned that we should refer to the experiences of overseas countries. Many overseas countries such as Singapore, the United Kingdom, Ontario in Canada and New South Wales in Australia, have laws to regulate private healthcare facilities, and we can learn from the experiences of these places in our review. Some Members have also mentioned that South Korea has similar experiences; we will collect the relevant information, and make adjustments on the basis of the actual local circumstances, thereby formulating an effective and feasible proposal on the regulation. I am going to briefly discuss the practice of other countries as we have observed at this stage.

In Singapore, private hospitals, private clinics, laboratories and even all private healthcare facilities are regulated under the same legislation, which contains provisions on various areas of the medical services, including the management structures, premises and equipment, staffing, service standards, risk management and medical records. It is particularly provided that the managers of private hospitals shall inform the patients of the total estimated expenses before or upon admission, so that they can have a choice.

In New South Wales, Australia, all private healthcare facilities are regulated. Apart from setting standards for areas such as management structures, premises and equipment, staffing, risk management, medical records and complaint handling, there is a careful classification according to the different medical procedures or scope of services of the private healthcare facilities, including 18 categories such as anesthesia, cardiac surgery, accident and emergency and intensive care, and different standards and requirements have been formulated.

A lot of overseas countries or regions such as Singapore, Maryland in the United States and British Columbia in Canada have laws or guidelines for the regulation of the treatments provided by beauty salons, and we can also refer to their experiences.

Take Singapore as an example. In 2008, the Singapore Medical Council promulgated the guidelines on beauty treatments. Based on currently available scientific evidence, beauty treatments are classified into List A and List B treatments. List A treatments are supported by moderate to high level of scientific evidence or local medical experts have reached a consensus that the procedures are well-established; and these treatments are further grouped into non-invasive, minimally invasive, and invasive procedures. List B treatments are supported by a low or very low level of scientific evidence, or the local medical experts have reached a consensus that the procedures are neither well-established nor acceptable. We will refer to these lists, but we may not completely copy them.

In Maryland in the United States, there are laws prohibiting beauty salons from carrying out procedures that will destroy human tissues, such as chemical resurfacing, using laser to remove the outer layers of the skin, and using razors to remove growth tissues of the skin.

In British Columbia in Canada, beauty salons shall comply with the provisions of the public health laws. For example, if operators of beauty salon have carried out acts that endanger public health, the health department has the right to suspend, cancel or change the beauty salon operators' licences or permits. I believe that it is worth our while to learn from the experiences of these places.

As regards interim measures to be taken pending the completion of the review, in response to public concerns about high-risk medical procedures being carried out in beauty salons, the DH, the Customs and Excise Department and the Consumer Council will step up measures to protect consumer interests. As Miss Alice MAK has proposed, we will step up education in three aspects to assist members of the public in understanding how to choose safe beauty services.

Also, Mr TANG Ka-piu and Dr LAM Tai-fai are particularly concerned about advertisements. The DH has enhanced the screening of beauty advertisements published in the past month, with the purpose of identifying beauty services involving high-risk medical procedures for follow-up. As at 24 October, the DH has screened 280 beauty advertisements, and found 129 cases involving potential health risks. The DH is now following up these cases.

The DH and the Consumer Council have set up a mechanism to analyse complaints about beauty advertisements, so as to determine the scope of the problem. If necessary, the DH will inspect beauty service companies and take enforcement actions under the existing laws. As at 22 October, the DH has conducted impromptu inspections on seven beauty companies involved in providing services involving invasive procedures, but no violations have been found so far. As I have just stated, the DH will continue to co-operate closely with the Consumer Council to raise public awareness of the risks of invasive beauty procedures, so that consumers will know how to choose safe beauty services. The DH will also follow up the 129 identified cases involving potential health risks.

President, I have just introduced the direction of the review on the regulation of private healthcare facilities and high-risk medical procedures. I would like to thank Members again for their constructive proposals. We will continue to listen to the views of all sectors of the community with an open mind, and sincerely co-operate with Members, so as to work together to develop a comprehensive regulatory framework to improve the service standards and transparency of private healthcare facilities, and provide better protection for the public who choose and can afford private healthcare services, while facilitating the long-term sustainable development of our healthcare system. On the other hand, through the regulation of high-risk medical procedures, we hope to clearly differentiate between medical and beauty procedures, so that all high-risk medical procedures, regardless of their purposes, are subject to appropriate regulation and can safeguard public safety. Thank you, President.

(Mr Albert CHAN stood up)

PRESIDENT (in Cantonese): Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): President, I want to seek your ruling on the false accusations just made by Dr Helena WONG against Mr CHAN Chi-chuen. I personally think that her accusations are offensive and insulting. President, I wonder if you would spend some time to review the recording.

PRESIDENT (in Cantonese): Mr CHAN has raised a point of order. According to the Rules of Procedure (RoP), Members should not use offensive language about other Members, or impute ulterior motives to another Member.

I will listen to the comments just made by Dr Helena WONG about Mr CHAN Chi-chuen again, in order to decide whether they are in line with the RoP. I now suspend the meeting.

9.02 pm

Meeting suspended.

9.19 pm

Council then resumed.

PRESIDENT (in Cantonese): Mr Albert CHAN considered that when Dr Helena WONG spoke about the amendments, she had used offensive or insulting language about another Member of the Legislative Council, which contravenes Rule 41(4) of the Rules of Procedure (RoP). Having listened very carefully to the relevant part in Dr Helena WONG's speech, I am of the view that the language used by Dr WONG does not constitute any offense or insult to another Member. Hence, I rule that Dr WONG's speech has not contravened Rule 41 of the RoP, as claimed by Mr Albert CHAN.

MR ALBERT CHAN (in Cantonese): However, the false accusations I have not read the relevant part of the RoP again, but sometimes accusations which are without a factual basis and are false can be more serious than an offense or insult.

PRESIDENT (in Cantonese): Mr CHAN, I think all Members would understand that in case two Members make accusations against each other, both of them may consider that the accusations made by the other party are false. But if facts are

involved and the debate is in progress, the Members concerned or their friends from the same party can still respond. But the debate has already come to a close after Dr WONG had spoken on the amendments and the Secretary had made his closing speech. If a Member considers that any Member has made certain false comments in his speech, that Member can of course point it out through other channels.

MR ALBERT CHAN (in Cantonese): A very important point is that her accusations are based entirely on the rationale that Mr CHAN Chi-chuen is the employee of a particular person, but his status as an employee has already ceased to exist. Hence, her accusations are clearly without a factual basis. Her accusations against Mr CHAN are obviously wrong and hence, constituted the use of offensive language later on.

PRESIDENT (in Cantonese): Mr CHAN, I have already made my ruling. You should know that there are precedents in this Council involving Members who made accusations that were without a factual basis against other Members, but no provision has been made in the RoP in this regard.

MR LEUNG KWOK-HUNG (in Cantonese): President, we seldom say things that are without a factual basis. You should not make such comment about us.

PRESIDENT (in Cantonese): Mr LEUNG, you should not speak loudly in your seat. Dr Joseph LEE, please move your amendment.

DR JOSEPH LEE (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Dr Joseph LEE moved the following amendment: (Translation)

"To add ", given that" after "That"; to delete "; in this connection" after "medical devices"; to add "(c) to enact legislation on regulating beauty services and related premises, including laboratories and clinics, so as to

ensure that the medicinal drugs, supplies and devices provided by such premises comply with safety standards and requirements, with a view to protecting the health and safety of members of the public and employees in the trade;" after "receive the treatments;"; to delete the original "(c)" and substitute with "(d)"; to delete the original "(d)" and substitute with "(e)"; and to delete the original "(e)" and substitute with "(f)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Joseph LEE to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for five minutes.

(During the ringing of the division bell, Mr WONG Yuk-man walked between the rows of Members' seats)

PRESIDENT (in Cantonese): Mr WONG Yuk-man, the meeting is still going on. Please do not walk between the rows of seats.

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

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

Functional Constituencies:

Mr Albert HO, Dr Joseph LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu and Mr Tony TSE voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO and Mr YIU Si-wing abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mrs Regina IP and Mr Michael TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Mr Albert CHAN, Mr WONG Yuk-man, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 13 were in favour of the amendment, nine against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 17 were in favour of the amendment, two against it and 10 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Regulating beauty industry" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew LEUNG be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Regulating beauty industry" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Miss Alice MAK, you may move your amendment.

MISS ALICE MAK (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Miss Alice MAK moved the following amendment: (Translation)

"To add "when the Government published in July 2003 the consultation document entitled 'Regulation of Medical Devices in Hong Kong' proposing the introduction of a regulatory framework for medical devices, there were already views expressing concern about the use of medical devices in the beauty industry and advocating that the regulation of the beauty industry should be strengthened;" after "That"; to add "set up under the Steering Committee on Review of the Regulation of Private Healthcare Facilities a working group including the beauty industry, expeditiously and" after "(a) to"; to delete "and" after "operate such devices;" and substitute with "(e) to step up inspection and monitoring, so as to preclude unscrupulous businessmen from engaging beauty industry employees to carry out medical procedures or operate devices for medical treatment uses; (f) to strengthen the regulation of misleading beauty care advertisements, and step up publicity and education to assist members of the public in understanding the relevant risks before purchasing beauty care services; and"; and to delete the original "(e)" and substitute with "(g)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss Alice MAK to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Albert HO, Dr Joseph LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr YIU Si-wing, Mr Charles Peter MOK, Mr KWOK Wai-keung, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu and Mr Tony TSE voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO and Mr Dennis KWOK abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr LEUNG Kwok-hung, Mr WU Chi-wai, Mr Gary FAN, Miss Alice MAK, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mrs Regina IP and Mr Michael TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Ronny TONG, Mr CHAN Hak-kan, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 13 were in favour of the amendment, nine against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 12 were in favour of the amendment, two against it and 15 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, you may move your amendment.

DR KWOK KA-KI (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Dr KWOK Ka-ki moved the following amendment: (Translation)

"To add ", given the Government's disregard for the regulation of the beauty industry in Hong Kong over the years, consumers have been repeatedly misled by unscrupulous sales practices and harmed by improper beauty care treatments in the past, and" after "That"; to add "at present, since this kind of organizations shall only apply for business registration certificates and are not subject to regulation by any licensing system, the standards of organizations in the beauty industry vary;" after "in doubt"; to add ", so as to ensure that such procedures are subject to regulation by the Medical Registration Ordinance, the Chinese Medicine Ordinance, the Nurses Registration Ordinance or other codes of professional conduct; (b) to enact comprehensive legislation and put in place a licensing system as well as a demerit point system to regulate the beauty industry and penalize non-compliant beauty care organizations" after "carry out such procedures"; to delete the original "(b)" and substitute with "(c)"; to delete the original "(c)" and substitute with "(d)"; to add ", requiring licensees or operators to also bear responsibilities in case of medical incidents" after "occurrence of incidents"; to delete the original "(d)" and substitute with "(e)"; to delete "and" after "operate such devices"; to delete the original "(e)" and substitute with "(f)"; and to add "; (g) to extend the scope of the Undesirable Medical Advertisements Ordinance to regulate exaggerated, misrepresented or misleading beauty service advertisements; and (h) to increase the manpower and resources of the Customs and Excise Department and the Department of Health, so as to ensure that they can conduct inspections on organizations providing beauty services" after "unfair trade practices"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr KWOK Ka-ki to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Albert HO, Dr Joseph LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Dennis KWOK and Mr IP Kin-yuen voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr KWOK Wai-keung, Mr TANG Ka-piu and Mr Tony TSE abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Ronny TONG, Ms Cyd HO, Dr Priscilla LEUNG, Mr Alan LEONG, Mr LEUNG Kwok-hung, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Dr Kenneth CHAN, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mrs Regina IP and Mr Michael TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr Albert CHAN, Mr WONG Yuk-man, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss Alice MAK, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, eight were in favour of the amendment, 12 against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 14 were in favour of the amendment, two against it and 13 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr CHAN Han-pan, you may move your amendment.

MR CHAN HAN-PAN (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Mr CHAN Han-pan moved the following amendment: (Translation)

"To delete "in recent years the beauty industry in Hong Kong has been developing rapidly and providing a range of services over and above general beauty care needs, which even include invasive medical beauty services the effectiveness of which is in doubt; recently, a beauty treatment centre gave intravascular infusions to some 40 consumers, with the consequence that four women sustained septic shock" after "That"; to add "since a recent incident in which four persons sustained septic shock after receiving intravascular infusions provided by a beauty treatment centre" before "and one of them"; to delete "; the incident" after "unfortunately"; to delete "risks of invasive medical beauty services," after "public concern about the" and substitute with "regulation of beauty services involving medical procedures, including"; to delete "individual beauty service providers and medical practitioners as well as" after "responsibility of" and substitute with "the industry and healthcare personnel,"; to delete "; in this connection, this Council calls on the industry to immediately stop high-risk invasive medical acts, and" after "medical devices" and substitute with ", professional development of employees in the beauty industry as well as the regulation of product sales, and consumer rights and interests, etc., this Council"; to delete "enact legislation to regulate the conduct and services of the beauty industry; the relevant measures should include" after "Government to expeditiously" and substitute with "conduct studies and adopt appropriate measures, including"; to delete "high-risk and invasive medical procedures, and require that only" after "(a) to clearly define" and substitute with "the types of beauty services involving medical procedures as well as associated risks, and stipulate that high-risk services must be carried out by"; to delete "may carry out such procedures" after "qualified healthcare personnel"; to add ", and establish a reporting mechanism for relevant incidents" after "occurrence of incidents"; to delete "implement" after "(d) to" and substitute with "conduct a study on the implementation of"; to add "or persons with accredited qualifications for operating the relevant devices" after "professionally qualified persons"; to delete "and"

after "operate such devices;" and substitute with "(e) to conduct a study on the promotion of the professional development of beauticians; and"; to delete the original "(e)" and substitute with "(f)"; to add "pre-paid" after "for selling"; and to delete "public health" immediately before the full stop and substitute with "consumer health, rights and interests". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Han-pan to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Han-pan rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Han-pan has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Kwok-him, Mr Steven HO, Mr POON Siu-ping and Mr Tony TSE voted for the amendment.

Mr Albert HO, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr Charles Peter MOK, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr Martin LIAO, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the amendment.

Dr LAM Tai-fai, Mr CHEUNG Kwok-che, Mr NG Leung-sing, Mr YIU Si-wing, Mr MA Fung-kwok, Mr KWOK Wai-keung and Mr TANG Ka-piu abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Mrs Regina IP, Mr Michael TIEN, Mr CHAN Han-pan, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the amendment.

Ms Emily LAU, Mr Ronny TONG, Mr Alan LEONG, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Dr Kenneth CHAN, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG voted against the amendment.

Mr LEUNG Yiu-chung, Mr WONG Kwok-hing, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Mr CHAN Chi-chuen and Miss Alice MAK abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, nine were in favour of the amendment, 14 against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, nine were in favour of the amendment, 10 against it and 10 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Vincent FANG, you may move your amendment.

MR VINCENT FANG (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Mr Vincent FANG moved the following amendment: (Translation)

"To delete "in recent years the beauty industry in Hong Kong has been developing rapidly and providing a range of services over and above general beauty care needs, which even include invasive medical beauty services" after "That" and substitute with "given the large increase in market demand for deep beauty care, there has been a marked increase in recent years in cases involving the use of medical methods in beauty procedures, which even include some invasive and so-called "medical beauty" services,"; to delete ";" after "in doubt" and substitute with "and some elements of which are actually high-risk medical acts; for example,"; to delete "medical beauty" after "risks of invasive" and substitute with "medical beauty"; to delete "individual" after "responsibility of"; to delete "as well as" after "medical practitioners" and substitute with "engaging in "medical beauty" care,"; to add "as well as the regulation of essentially high-risk medical acts under the guise of beauty services that are similar to acts involved in the incident" after "medical devices"; to add "the Government to expeditiously differentiate high-risk "medical beauty" services from beauty services and" after "this Council calls on"; to delete "high-risk invasive medical acts" after "to immediately stop" and substitute with "medical acts defined as high-risk and invasive"; to add "the abuse of medical acts in the beauty industry, so

as to improve" after "legislation to regulate"; to add "who have received the relevant training" after "qualified healthcare personnel"; to add "differentiate medical devices from beauty devices," after "registration system,"; to add "who have obtained accredited training relating to the relevant devices" after "professionally qualified persons"; to delete "amend the relevant legislation, and incorporate a "cooling-off period" for selling beauty services into" after "(e) to" and substitute with "review"; and to add ", and study whether to bring "medical beauty care" under regulation" after "come into force next year"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Vincent FANG to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Vincent FANG rose to claim a division.

PRESIDENT (in Cantonese): Mr Vincent FANG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr Frankie YICK, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted for the amendment.

Mr Albert HO, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr POON Siu-ping and Mr TANG Ka-piu voted against the amendment.

Dr Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing and Mr MA Fung-kwok abstained.

Geographical Constituencies:

Dr Priscilla LEUNG, Mrs Regina IP and Mr Michael TIEN voted for the amendment.

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Mr CHAN Han-pan, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 13 were in favour of the amendment, seven against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, three were in favour of the amendment, 19 against it and seven abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, you may move your amendment.

MR CHAN CHI-CHUEN (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Mr CHAN Chi-chuen moved the following amendment: (Translation)

"To delete "as well as the regulation of medical devices" after "medical practitioners"; to delete "the industry to immediately stop high-risk invasive medical acts" after "this Council calls on" and substitute with "the authorities and the industry to jointly discuss the definition of medical procedures involved in medical beauty care, clearly set out the risks in different areas and provide recommended guidelines"; to delete "and services" after "regulate the conduct"; to add "through joint discussion by the authorities and the industry" after "invasive medical procedures"; to delete "(d) to implement a medical device registration system, and require that only professionally qualified persons may operate such devices; and" after "occurrence of incidents;" and substitute with "and"; to delete the original "(e)" and substitute with "(d)"; and to add "especially forbidding the publication of certain medical beauty efficacies which have not been scientifically and empirically proven in related promotional advertisements to avoid misleading consumers," after "unfair trade practices,."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Chi-chuen to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Chi-chuen rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr WONG Ting-kwong, Ms Starry LEE, Dr LEUNG Ka-lau, Mr IP Kwok-him, Mr Steven HO and Mr POON Siu-ping voted for the amendment.

Mr Albert HO, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHAN Kin-por, Mr

CHEUNG Kwok-che, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kuok, Mr Charles Peter MOK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr Martin LIAO, Mr TANG Ka-piu, Ir Dr LO Wai-kuok and Mr CHUNG Kwok-pan voted against the amendment.

Dr LAM Tai-fai, Mr NG Leung-sing and Mr Tony TSE abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Mr Gary FAN, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the amendment.

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, six were in favour of the amendment, 21 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 12 were in favour of the amendment and 17 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may move your amendment.

MR RONNY TONG (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Mr Ronny TONG moved the following amendment: (Translation)

"To add "in addition, as such beauty service products are often sold in the form of package tickets, if the companies concerned suddenly close down, consumers will suffer losses immediately but are unable to receive any compensation;" after "medical devices;"; to delete "calls" after "this Council" and substitute with ", besides calling"; to delete "and" after "invasive medical acts,."; to delete "risks" after "in advance the" and substitute with "medical risks to be involved"; to add "respective medical risk" after "(c) to clearly define the"; to add ", including the responsibility to take out medical insurance" after "occurrence of incidents"; to delete "and" after "operate such devices;"; and to add "; and (f) to study the establishment of a trust fund for prepayment and medical risks relating to the beauty industry, so as to protect the rights and interests of consumers and persons affected by blunders in medical beauty treatments, and enable them to get reasonable compensation" after "unfair trade practices"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Ronny TONG to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

PRESIDENT (in Cantonese): Mr Ronny TONG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Albert HO, Dr Joseph LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Dennis KWOK, Mr IP Kin-yuen and Mr POON Siu-ping voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr KWOK Wai-keung, Mr Martin LIAO, Mr TANG Ka-piu, and Mr Tony TSE abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Dr Kenneth CHAN, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mrs Regina IP and Mr Michael TIEN voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Albert CHAN, Mr WONG Yuk-man, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss Alice MAK, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, nine were in favour of the amendment, nine against it and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 13 were in favour of the amendment, two against it and 14 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Dr LEUNG Ka-lau, you may move your amendment.

DR LEUNG KA-LAU (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Dr LEUNG Ka-lau moved the following amendment: (Translation)

"To add "(b) to amend the Medical Registration Ordinance stipulating that companies which actually or claim to engage in medical business must have more than half of their directors being registered medical practitioners, so that the Medical Council of Hong Kong has legal basis to require registered medical practitioners serving as directors to ensure the operation of such companies in compliance with professional conduct, otherwise it may take disciplinary action and even remove their names

from the register of medical practitioners;" after "carry out such procedures;"; to delete the original "(b)" and substitute with "(c)"; to delete the original "(c)" and substitute with "(d)"; to delete the original "(d)" and substitute with "(e)"; and to delete the original "(e)" and substitute with "(f)".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr LEUNG Ka-lau to Dr Helena WONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Joseph LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr MA Fung-kwok, Mr KWOK Wai-keung, Mr Martin LIAO, Mr POON Siu-ping and Mr TANG Ka-piu voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the amendment.

Mr Albert HO, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr Charles Peter MOK, Mr Dennis KWOK, Mr IP Kin-yuen and Mr Tony TSE abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Mr WONG Kwok-hing, Ms Cyd HO, Mr WONG Kwok-kin, Mrs Regina IP, Mr LEUNG Kwok-hung, Mr Michael TIEN, Mr Gary FAN and Miss Alice MAK voted for the amendment.

Dr Priscilla LEUNG voted against the amendment.

Mr CHAN Kam-lam, Ms Emily LAU, Mr TAM Yiu-chung, Mr Ronny TONG, Mr CHAN Hak-kan, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Dr Kenneth CHAN, Dr KWOK Ka-ki, Mr SIN Chung-kai, Dr Helena WONG, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, nine were in favour of the amendment, nine against it and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, nine were in favour of the amendment, one against it and 19 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Dr Helena WONG, you may now reply and you have two minutes 40 seconds.

DR HELENA WONG (in Cantonese): President, we have already expected that no matter what motion we propose, it will never be passed in the Council.

The main reason why this motion cannot be passed today, I believe, is that the Democratic Alliance for the Betterment and Progress of Hong Kong has to, as it has stated, conduct repeated studies on the numerous useful and forceful recommendations in the motion first. Of course, there is also a fellow in the People Power who has not declared interests here for the sake of his friend. The Member concerned said that he had been offended, but let me borrow Yuk-man's words: this is only an objective fact with a subjective description.

I have found some information on the Internet which reveals that in June 2011, Mr SHIU said that Mr CHAN Chi-chuen was Hong Kong Reporter's Chief Executive Officer (CEO). Of course, I am not sure if he is still Hong Kong Reporter's CEO now. I only query that he has not declared interests. Besides, his election partner is engaged in the beauty industry.

All right. This is not our subject of discussion today. I would like to reiterate that the purpose of the original motion is not to stifle the beauty industry
.....

(Mr Albert CHAN stood up)

PRESIDENT (in Cantonese): Dr WONG, please hold on. Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): President, I want Dr Helena WONG to clarify why our friends' interests have to be declared as well.

PRESIDENT (in Cantonese): Dr WONG, please continue.

DR HELENA WONG (in Cantonese): The purpose of the original motion is not to stifle the beauty industry. Rather, it is simply directed against those black sheep in the industry who give no regard to human lives and put profit before everything else. Our purpose is to upgrade the conduct and standard of services of the beauty industry for the protection of public health and put medical beauty practices and the beauty industry on a healthy track of development.

President, today we put forth our request for the Administration and this Council to expeditiously enact legislation and formulate administrative regulatory measures. With the prevalence of advertisements of medical beauty services everywhere, I agree, as many Members have said, that both public education and regulation of the relevant advertisements are highly important.

Let me appeal to the Government, instead of implementing national education for political brainwashing, why not launch an anti-brainwashing beauty project to promote healthy beauty concepts in schools and different media, educating the public that one does not need to take high risks and waste money on body trimming and cosmetic surgeries to become beautiful. We need to break the beauty myth which gives one-sided standards of beauty emphasized through extensive advertisements and publicity in the capitalist society today. That is, white is pretty whereas black is ugly; being thin is pretty whereas being fat is ugly (*The buzzer sounded*) in respect of these one-sided standards, we need to change such mentality through education.

PRESIDENT (in Cantonese): Dr WONG, your speaking time is up.

DR HELENA WONG (in Cantonese): Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Helena WONG be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute.

(While the division bell was ringing, a Member yelled in his seat)

PRESIDENT (in Cantonese): Will Members please do not yell in their seats.

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

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

Functional Constituencies:

Mr Albert HO, Dr Joseph LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr IP Kin-yuen Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu and Mr Tony TSE voted for the motion.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Frankie YICK, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the motion.

Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing and Mr MA Fung-kwok abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG voted for the motion.

Mrs Regina IP and Mr Michael TIEN voted against the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr Albert CHAN, Mr WONG Yuk-man, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, 13 were in favour of the motion, nine against it and eight abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 16 were in favour of the motion, two against it and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm tomorrow. I wish you all a happy Halloween.

Adjourned accordingly at eleven minutes to Ten o'clock.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for the Financial Services and the Treasury to Mr Dennis KWOK's supplementary question to Question 6**

The Administration would like to confirm that the Preparatory Task Force on Financial Services Development Council (FSDC) had consulted a diverse group of stakeholders, including industry players and relevant professional bodies, to collect views on the establishment of the FSDC. For the legal sector, The Law Society of Hong Kong and the Hong Kong Bar Association had been invited to express their views.