

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 March 2014

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

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

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

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P., Ph.D.,
R.N.

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, S.B.S., J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE 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 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 WONG YUK-MAN

THE HONOURABLE YIU SI-WING

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

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

THE HONOURABLE WONG KAM-SING, J.P.
SECRETARY FOR THE ENVIRONMENT

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

CLERKS IN ATTENDANCE:

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

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Public Revenue Protection (Dutiable Commodities) Order 2014	25/2014
Rating (Exemption) Order 2014	26/2014

Other Papers

- No. 85 — Correctional Services Department Welfare Fund
Report by the Commissioner of Correctional Services of
Hong Kong Incorporated on the Administration of the Fund
for the year ended 31 March 2013
- No. 86 — Estimates
for the year ending 31 March 2015
General Revenue Account
- Consolidated Summary of Estimates
- Revenue Analysis by Head
- No. 87 — Hong Kong Rotary Club Students' Loan Fund
Financial Statements for the year ended 31 August 2013
- No. 88 — Sing Tao Charitable Foundation Students' Loan Fund
Financial Statements for the year ended 31 August 2013
- No. 89 — The Lord Wilson Heritage Trust
Annual Report 2012-2013

Report of the Committee on Rules of Procedure on access to documents and records of the Legislature

Report No. 13/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2013

Report of the Bills Committee on Product Eco-responsibility (Amendment) Bill 2013

Addendum to the Report of the Bills Committee on Stamp Duty (Amendment) Bill 2012

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Alleviation of Crowdedness of MTR Train Compartments

1. **MS STARRY LEE** (in Cantonese): *President, according to a paper submitted by the Transport and Housing Bureau to the Subcommittee on Matters Relating to Railways under the Panel on Transport of this Council, the busy sections of the Tseung Kwan O Line, East Rail Line (ERL), West Rail Line (WRL), Tsuen Wan Line, Island Line and Kwun Tong Line have been loaded with passengers to capacity or are close to that during the morning peak hours, based on the actual passenger density level of four persons (standing) per sq m. Regarding alleviation of the crowdedness in MTR train compartments, will the Government inform this Council:*

- (1) *whether the authorities will take measures (such as requesting the MTR Corporation Limited (MTRCL) to modify its fare structure, making use of other modes of public transport for diversion of*

passengers and setting up shopping areas near the boundary) to alleviate the passenger loading of the railways; if they will, of the details and the implementation timetable; if not, the reasons for that;

- (2) *as the ERL has already been loaded with passengers to capacity during peak hours but the project of North East New Territories New Development Areas (NENT NDA) will increase the population to be served by the ERL, and the carrying capacity of the ERL will be reduced by the replacement of the current 12-car trains by nine-car trains upon the full commissioning of the Shatin to Central Link (SCL), of the plans of the authorities to alleviate the crowdedness in the train compartments of the ERL; and*
- (3) *whether it has assessed the impact of the commissioning of the SCL, the South Island Line and the West Island Line on the patronage of MTR, as well as the number of ERL passengers to be generated by the additional population upon the completion of the relevant items of the NENT NDA project; if it has, of the details; if not, the reasons for that; whether it has plans to accelerate the development of the Northern Link (NOL) so as to divert some ERL passengers to the WRL; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, both the Government and the MTR Corporation Limited (MTRCL) understand the community's concern on the rather high train loading situation on some busy railway lines during peak hours. The MTRCL will respond in a holistic manner by, *inter alia*, strengthening passenger flow management, purchasing new trains, replacing the signalling systems, ensuring the timely completion of new railway lines, and so on. Details were explained to Members at the meeting of the Subcommittee on Matters Relating to Railways late last month, and I am not going to repeat them here.

My reply to the various parts of Ms Starry LEE's question is as follows:

- (1) We have considered the pricing strategy mentioned by Ms Starry LEE. Our preliminary view is that it is worthwhile to study the feasibility of a fare concession scheme in encouraging some of the commuters to take their MTR rides outside peak hours. The MTRCL is pressing ahead with the study, and will make reference to

similar practices adopted by overseas cities, so as to decide how best the scheme could be implemented in Hong Kong for achieving passenger diversion. The conclusion will be made known to the public once available.

The four new domestic rail lines under construction, namely, the West Island Line, the South Island Line (East), the Kwun Tong Line Extension and the SCL, will be commissioned in phases between end-2014 and 2020. Upon their commissioning, it will help increase the overall carrying capacity of the MTR system and the diversion of the existing patronage. In particular, upon its full commissioning, the SCL will provide an additional rail line across the harbour, thereby alleviating the passenger flow served by the existing MTR cross-harbour routes during peak hours.

Amid the expansion of the railway network, franchised buses will continue to play an important role in our public transport system. At present, the railway and franchised bus networks account for about 40% and 32% respectively of the daily passenger trips made by public transport modes.

Apart from serving areas not directly accessible by railways, franchised buses provide feeder service to railway stations and supplementary service in areas within the railway catchment. Depending on actual needs, there are inter-district bus services to complement railway service. Indeed, bus services of different scales, including peak-hour services, are generally available in areas already served by railways so that passengers can have more choices. The 78 cross-harbour franchised bus routes are basically running alongside the most crowded cross-harbour sections of the railway system. This helps facilitate passenger diversion. The Transport Department, together with franchised bus operators and the MTRCL, will study how buses can play a greater role in passenger diversion.

- (2) The busiest section of the East Rail Line (ERL) is the section from Tai Wai Station to Kowloon Tong Station, which is currently the only way to the urban areas for commuters of the ERL and the Ma On Shan Line (MOL). In this regard, the SCL section between Tai Wai and Hung Hom scheduled for completion in 2018 will connect with the West Rail Line (WRL) and the MOL to form the "East West

Corridor" (EWC). The seven-car train running in WRL and four-car trains in the MOL will altogether become eight-car trains running along the EWC. As such, the railway link will not only increase the carrying capacity, but will also play a vital part in diversion of passengers. In 2020, the SCL will extend to Admiralty and form the "North South Corridor" (NSC) with the ERL. Upon full commissioning of the NSC, we estimate that about 20% of the passengers from the section between Tai Wai and Kowloon Tong will switch to the SCL for onward trips to Kowloon East and Hong Kong Island, thus alleviating the loading of the ERL.

The underground utilities and foundations of buildings along the northern shore of Hong Kong Island is congested, leaving limited sites or space for the construction of railway stations. As such, trains running along the NSC connecting Lo Wu Station and Admiralty Station will have to be changed from 12-car trains currently serving the ERL to nine-car trains. To tie in with the enhancement of the signalling system, however, the headway will be shortened from about three minutes currently to about two minutes during peak hours, enabling the NSC to operate with a carrying capacity similar to that of the ERL. Coupled with the diversion effect mentioned above, we anticipate a drop of about 20% in the patronage of the ERL section between Tai Wai Station and Kowloon Tong Station in the morning peak hours after the commissioning of the SCL.

- (3) The "North East New Territories New Development Areas Planning and Engineering Study" undertaken by the Planning Department and the Civil Engineering and Development Department of the Development Bureau has been largely completed. It is anticipated that the Kwu Tung North New Development Area (NDA) and the Fanling North NDA, upon full development in 2031, will be able to accommodate an additional population of over 170 000, with the first intake in 2023. The above Study proposes the construction of the new Kwu Tung Station to cope with the increased transport demand, and, in the long run, the exploration of constructing the Northern Link (NOL) to connect the ERL and the WRL for diverting the passenger flow from the ERL, as well as serving the additional population along its alignment.

The Government has commissioned a consultant to conduct a study for the Review and Update of the "Railway Development Strategy 2000", exploring, among others, the conceptual proposals of the NOL and the addition of the Kwu Tung Station. After considering the consultant's overall recommendations, we will formulate the blueprint for railway development beyond 2020 having regard to transport demand, cost-effectiveness and development needs of NDAs. We will announce the way forward for the new railway proposals as soon as possible.

MS STARRY LEE (in Cantonese): *President, the crux of the issue is that more and more people choose to travel on the MTR for work or going out. If you ask people why they do so, the reason is very simple: The MTR is fast and punctual so that they can have time in their grasp. We can see that the MTR is overcrowded, but buses and minibuses encounter great difficulties in operation. Meanwhile, ferries are put on "saline drip" and subsidized by the Government. The people do not take buses and minibuses because they do not want to be caught in traffic jams. Also, they are not sure about the arrival time of the next bus and minibus.*

President, I thank the Secretary for his positive response to my question and his undertaking to study the feasibility of implementing a fare concession scheme, the conclusion of which will be made known to the public where appropriate. But apart from studying the feasibility of a fare concession scheme, we have to address traffic congestion. Furthermore, the installation of systems on estimated time of arrival should be required for buses and minibuses to enable passengers to know the next service.

President, my supplementary question is as follows. Given that the road traffic network and rail network will continue to improve in the future, will the Government consider conducting a comprehensive study on traffic strategies so as to understand the positioning of different modes of transport in the new road traffic network and rail network, and what policies or supporting measures are required for achieving effective passenger diversion by various modes of transport?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, Ms LEE was right. Although the rail network is more convenient, enabling the people to have time in their grasp in a more effective manner and

therefore attracts more passengers, we certainly cannot just look at the rail network when examining public transportation. On different occasions in the past, Legislative Council Members also asked whether the Government would conduct another comprehensive transport study. In reply, I said that a large-scale Comprehensive Transport Study as we did in the past might take several years and consultants might have to be commissioned. But I think we should address the problem expeditiously. In view of this, I have undertaken that after the completion of the "Railway Development Strategy 2000", as I mentioned in the main reply, and the announcement of a new blueprint, a study on the long-term planning of public transport in Hong Kong will be launched. The focus of this study will be placed at examining different modes of public transport, including the positioning of railways, franchised buses, minibuses and taxis, as well as how they can tie in with each other so that the overall carrying capacity can be improved. In the meantime, a special study on traffic congestion will be conducted.

MR CHAN HAK-KAN (in Cantonese): *President, according to a 1991 newspaper clipping on hand, the bus route No. 300 from Prince Edward to Central was launched to alleviate the overcrowdedness of the cross-harbour section of the Tsuen Wan Line. This bus route, which is very popular, has solved the overcrowding problem of the MTR. Nowadays, it is not possible to solve the overcrowding problem of the ERL despite additional special service or enhanced service during peak hours. May I ask the Government whether it will consider the provision of point-to-point bus routes such as from Tai Po to Kowloon, from North District to Kowloon and from Sha Tin to Kowloon, in order to solve the overcrowdedness of the ERL by providing options to commuters travelling to work?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as I said in the main reply, the Transport Department, together with franchised bus operators and the MTRCL, will study how buses can play a greater role in passenger diversion, especially during peak hours and the busiest sections of the rail lines concerned.

In particular, we certainly have to conduct a further study in order to identify the best arrangement, with the focus on finding out which sections of the rail lines face a loading problem, thereby necessitating on-road diversion. But

we have to consider that an excessive increase in bus routes will lead to road congestion, thus defeating the purpose of effective diversion. Therefore, an overall assessment has to be conducted and we are most happy to actively consider the problem in this direction.

MR CHAN HAN-PAN (in Cantonese): *President, the West Rail Line (WRL) has already reached capacity and shows signs of fatigue after 10 years. It is expected that as population grows in Yuen Long, the forthcoming Hung Shui Kiu and Tuen Mun West Extension will not solve the problem even though train cars on the WRL will be increased by one and the headway will be shortened in 2018 as mentioned by the Secretary earlier. Conversely, the construction of an additional rail line is the radical way of diverting passengers.*

In the past, we have repeatedly requested construction of the Tuen Mun-Tsuen Wan Line. But the attitude of the Secretary has been most ambiguous. Will the Secretary tell us and the people of New Territories West categorically that the Government will construct the Tuen Mun-Tsuen Wan Line?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have said in my main reply that we are still at the final collation process with regard to the review and the study of "Railway Development Strategy 2000". The consultancy has submitted its overall recommendations and the Government is currently carrying out its final compilation work. In the past, we have heard many ideas in the consultations on the feasibility of the conceptual proposals of each major regional railway corridor or the feasibility of the planning of each regional corridor and spur line. We have also received opinions outside of the relevant consultation programme. Once we have completed the collation, I anticipate an announcement on the relevant details later this year at the soonest.

When considering various options, we certainly have to also examine the transportation needs, regional development directions, scale as well as cost-effectiveness. As we will make such assessments from the overall perspective, please forgive me for not being able to reveal any material data on each specific item today.

MR FRANKIE YICK (in Cantonese): *Basically, the Government's reply means the MTR remains the main axis in resolving the crowdedness problem. But Ms Starry LEE also mentioned just now that the bus and minibus operators are currently facing difficulties in operation. Will the Government consider utilizing other transport modes more often during the rush hours? I would like to make a suggestion here. Will the Government consider introducing a new inter-district bus service only during the morning peak hours to alleviate the crowdedness experienced by the ERL now?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): *President, we are now actively studying with the bus operators and the MTRCL on better utilization of the franchised bus routes. We hope to achieve some measure of diversion during peak hours, especially along busy rail sections.*

This is plausible but we certainly have to give due consideration to the traffic congestion. Moreover, even if we make frequent use of the franchised buses and minibuses, we have to ensure that there is enough ridership. Otherwise, the operators may still face difficulties in operation.

Like Ms Starry LEE said earlier, more and more people choose to take the MTR even though the train compartments are very often quite crowded during the morning peak hours and along busy sections of rail lines. It is because they can have a better control over the time and other aspects.

MR MICHAEL TIEN (in Cantonese): *President, the actual passenger density level of four persons (standing) per sq m is based on the current assumption of the number of travellers under the Individual Visit Scheme (IVS) and the suitcases carried by them. During the past year, the total number of travellers under the IVS was 27 million. On average, there has been an annual increase of 20% over the past five years. If we do not regulate the rate of increase over the next five years, I am sure the annual increase will far exceed 20% after the commissioning of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the Hong Kong-Zhuhai-Macao Bridge.*

President, if the annual increase is 20%, my rough estimation is that the number of visitors under the IVS will reach 67 million per annum after five years. If the increase is 30%, the number will be 100 million. The suitcases they carry

will certainly surge in volume. By that time, the current passenger density level of four persons (standing) per sq m will become absolutely impossible. Prior to the implementation of the IVS, the authorities defined the meaning of crowdedness as passenger density level of six persons (standing) per sq m.

Today, may I ask the Secretary whether the Government will learn from its past mistakes and, therefore, adopt a passenger density level of less than four persons (standing) per sq m as the definition of crowdedness in its future planning? Will the Government pinpoint this problem by formulating a new long-term definition when announcing the MTR's future development report in May so as to pre-empt the change of passenger density level of four persons (standing) per sq m to three persons on the excuse that the new route has reached capacity after its opening?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, in answering Mr Michael TIEN's supplementary question, I may perhaps take this opportunity to explain a little bit what "passenger density level of four or six persons (standing) per sq m" means. In dealing with passenger flow, including during peak hours, the MTR's current service benchmark is based on the passenger density level of four persons (standing) per sq m. This is the actual situation. However, the initial calculation of carrying capacity was based on six persons, which means the overall safety operation of the whole train would still be unaffected even though there were six passengers standing per sq m. Sometimes even though the train compartments are very crowded, passengers are still willing to get on board, therefore exceeding the comparatively acceptable level of four persons (standing) per sq m without affecting the safety of the train. Even so, we will always adopt the passenger density level of four persons (standing) per sq m as our service criterion for new rail lines currently under construction and the new rail lines to be completed after 2020.

Mr Michael TIEN pointed out that the number of inbound travellers would rapidly rise and some of them might carry suitcases. He asked what we could do to cope with it by that time. Honestly speaking, it is a tall challenge for the railway system as well as Hong Kong's overall public transport system. At present, our overall public transport system is considered to be highly efficient compared with various cities all over the world. Each day, 90% of the total public transport patronage makes use of different public transport modes with railways and franchised buses being the two major modes. As the number of

passengers, including inbound travellers, increases and they all make use of these public transport networks, we really have to study ways to deal with the problem.

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

MR MICHAEL TIEN (in Cantonese): *I asked the Secretary whether he would tackle the issue of passenger density level of four persons (standing) per sq m in his railway development report to be announced in May. The Secretary said that he would not while admitting that if the number of visitors increased ...*

PRESIDENT (in Cantonese): Mr Michael TIEN, debate is not allowed during question time. If you think that the Secretary has not answered your question, please repeat your supplementary question.

MR MICHAEL TIEN (in Cantonese): *The Secretary admitted that the continual increase in the number of visitors to Hong Kong in addition to the suitcases they carry, a square metre may not be enough for four persons standing. But the Secretary also indicated that all his future planning would be based on the criterion of four persons. There seems to be some sort of contradictions. Will the Secretary please clarify?*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I have not particularly taken the suitcases into calculation while mentioning the passenger density level per sq m. Our service criterion is based on four persons (standing) per sq m. Whether it is for our new rail lines currently under construction, or for our promulgated railway development blueprints for 2020 and ahead, or for any subsequent new railway projects, we will continue to adopt the passenger density level of four persons (standing) per sq m as our service criterion.

As for the accompanying suitcases, it depends on what kind of suitcases they are because even local passengers may also have some hand-carry articles with them. Train compartments of the railway system are generally designed to meet passengers' need to bring along such articles as strollers. Certainly, the MTRCL should enhance its platform management and passenger flow management during peak hours.

Mr Michael TIEN mentioned just now the meeting of the Subcommittee on Matter Relating to Railways scheduled for May. I cannot say today whether we are ready to announce the railway development blueprints for 2020 and ahead. The final stage of collation is currently underway.

MR GARY FAN (in Cantonese): *I read a newspaper report today which said that Hong Kong people on the MTR are crammed in like "sardines". In view of this, the MTRCL announced that the headway for Island Line, Kwun Tong Line and Tsuen Wan Line would be shortened next month. But according to the report submitted by the Secretary earlier, the Tseung Kwan O Line is the most crowded at an overloading level of 100.6%. Why does the schedule of increasing the services for the Tseung Kwan O Line this year remain uncertain? I hope the Secretary can provide an answer.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the MTRCL well understands that society is concerned about the crowdedness of train compartments in peak hours, especially on busy sections. The Government has requested the MTRCL to enhance train service where the signalling systems allow. Yesterday, the MTRCL announced that train services would be increased by more than 300 journeys in phases from April. The MTRCL will increase the number of journeys on various rail lines where security, platform space and signalling systems allow.

PRESIDENT (in Cantonese): We have spent 22 minutes on this question. Second question.

Requirement for Persons with Special Educational Needs to Move Out of Small Group Homes upon Reaching Age of 18

2. **DR FERNANDO CHEUNG** (in Cantonese): *President, it is learnt that children with special educational needs (SEN) such as those with mild intellectual disability may be admitted to small group homes (SGHs) under the Social Welfare Department (SWD), but the age limit for living in SGHs is 18 years old. Some persons with SEN who moved out of SGHs upon reaching the age of 18 but had not yet completed their senior secondary school education have encountered adjustment difficulties in daily life due to the drastic changes in their living environment, and their study progress has also adversely been affected. In this connection, will the Government inform this Council:*

- (1) *of the number of persons with SEN who moved out of SGHs as they had reached the age of 18 in each school year since 2009-2010, with a tabulated breakdown by their characteristics and circumstances as follows: genders, types of schools attended (that is, mainstream or special schools), types of SEN (that is, specific learning difficulties, intellectual disability, visual impairment, hearing impairment, autism spectrum disorders, physical disability, speech impairment, attention deficit/hyperactivity disorder), and their accommodation arrangements after leaving SGHs (for example, living with parents or relatives, admitted to private residential homes or those homes with vocational training for adults, and so on); and*
- (2) *with regard to persons with SEN who have not yet completed their senior secondary school education, whether the authorities will raise their age limit for living in SGHs; if so, of the procedures and guidelines for such upward adjustment; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, my reply to the questions raised by Dr Fernando CHEUNG is as follows:*

- (1) *To support children who are temporarily devoid of adequate family care, the Government subsidizes non-governmental organizations to provide different types of residential care services, including non-institutional SGHs. SGH aims to provide children under the age of 18 who are devoid of adequate care with a stable, safe and*

home-like environment conducive to their physical, social, emotional and intellectual growth and development, until they can return to their homes or be arranged with suitable long-term placement.

There are in general three types of SGH, *viz* (i) ordinary SGH which mainly serves children with normal intelligence, and also takes in children with mild behavioural or emotional problems and slow learners; (ii) Integrated SGH which serves both children with normal intelligence and children with mild intellectual disabilities; and (iii) SGH for Mildly Mentally Handicapped Children which serves children with mild intellectual disabilities.

As SGH aims to serve children aged under 18, the services and support facilities it provides are tailored to meet the needs of this group of children. Nevertheless, the SWD would consider individual case on its own merits and allow flexibility in the age limit.

The SWD does not capture statistics on whether children living in ordinary SGH have SEN or not. However, the SWD has examined the reasons for children to leave these SGHs in general. From the 2009-2010 school year till now, 133 persons left ordinary SGH after they had reached 18. Among them, 82 (62%) left for family reunion; 27 (20%) for independent living; 23 (17%) for other residential care services; and one (1%) for other reasons.

As for the children with mild intellectual disabilities in SGH for Mildly Mentally Handicapped Children/Integrated SGH, from the 2009-2010 school year till now, 21 persons left after they had reached 18. Among them, 12 (57%) left for other residential care services; eight (38%) for family reunion; and one (5%) did not specify the reason.

- (2) As mentioned in the reply to part (1) of the question, notwithstanding that SGH aims to serve children aged under 18, the SWD would allow flexibility in the age limit as deemed appropriate having regard to the circumstances of individual children. If the responsible social worker, after assessing the residential and study/training needs of a child who will soon be reaching 18,

considers that it is in the best interests of the child to stay in the SGH, the SWD will exercise discretion having regard to the merits of the case. From the 2009-2010 school year till now, 11 persons who had reached 18 but not yet completed education had applied to extend their stay in SGH for Mildly Mentally Handicapped Children/Integrated SGH, mainly on grounds of inadequate family care, special study/training needs, or awaiting admission to other suitable placement. The SWD approved all 11 applications after considering their individual merits.

DR FERNANDO CHEUNG (in Cantonese): *President, I raised this question because in the past, there were indeed known cases of children with mild intellectual disabilities having to leave SGHs because they had reached 18 years of age despite not having completed their education at that time. Moreover, such an accommodation arrangement also caused them many problems in adaptation and they might even have to give up their education as a result. Although the Secretary said in the main reply that discretion would be exercised, can he promise that mentally handicapped children who have reached 18 years of age will not be requested to leave on account of their having reached the age if they have not yet completed their senior secondary education?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): It is difficult for me to make a comprehensive undertaking at this stage because our decision must be based on the merits of each case. I pointed out very clearly in the main reply that all the 11 applications received since the 2009-2010 school year had all been approved. We have to examine the cases one by one because SGHs are different from other residential homes as consideration must be given to several points. For example, we have to consider such aspects as the operation of SGHs, the composition of children of various age groups living in SGHs and management issues. Therefore, we will look at the merits of each case before making further consideration. All the 11 applications received in the past were approved. So long as there is such a need, we will surely grant approval.

DR FERNANDO CHEUNG (in Cantonese): *However, the focus should not fall on many of these considerations, for what matters most should be children's welfare. The Secretary is unwilling to give a promise but from the perspective*

of children's welfare, it is definitely not a satisfactory arrangement to make them move out before completing their education.

PRESIDENT (in Cantonese): Dr CHEUNG, no debate shall arise during question time. The Secretary has already replied. If you are not satisfied with it, please debate with the Secretary on other occasions.

MR CHEUNG KWOK-CHE (in Cantonese): *President, we all know that for ordinary people, they should be able to look after themselves if they have reached 18 years of age, although with regard to young people nowadays, there may be some doubt about this point. However, although physically, children with intellectual disabilities have reached 18 years of age, their intelligence may only be equivalent to that of an ordinary person aged 14 or 15, so it may be rather difficult to require them to become independent. According to the information provided by the Secretary just now, some of these people were taken back home to live together with their families, while others were transferred to other residential care homes. In view of this, may I ask the Secretary if the relevant age limit can be changed from 18 years to 21 years? This is because to mildly mentally handicapped persons, their intelligence is equivalent to that of an ordinary person aged 18 years only when they have reached 21, so can the Secretary give a reply to this?*

President, in addition, I also hope that the Secretary can provide some supplementary figures, for example, on the factors based on which flexibility is exercised and the number of cases involved. This is because I do not want him to use the word "flexibility" to answer all questions in a general manner.

PRESIDENT (in Cantonese): Mr CHEUNG, you have asked more than one supplementary question. Please let the Secretary give a reply first. If you still wish to raise other questions, please wait for another turn.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, we fully understand the concerns of the Member. In fact, we are also quite concerned about the welfare of these children, so when dealing with them, their welfare and long-term well-being are our ultimate considerations.

Concerning the age requirement of 18 years old, since these SGHs are not residential care homes *per se* and they are designed to enable children to lead a proper social life in a home-like environment, which is quite important to these children, so the range of six to 18 years is quite large, and in this regard, the age range for staying in SGHs is even four years to 18 years. If the ages of some residents are too senior, this will give rise to many issues requiring consideration, including management and communication issues. However, we will not order them to move out immediately on reaching 18 years of age irrespective of their needs either. Rather, we will look at the future arrangements for and long-term welfare of each child. For example, if the self-care ability in daily life of such children has reached 50%, we can arrange for them to move into supported hostels. In this process, there is an effective interface and it definitely is not true that they would be asked to leave as soon as they have reached 18 years of age. We will surely make appropriate arrangements and exercise discretion when they have special needs, so as to allow them to stay in SGHs for a longer period of time. This is also the reason for granting approval to all 11 cases in the past. We are fully aware of this.

In addition, we are also concerned about the need to increase the number of residential places. In fact, we will increase the number of places in the next two fiscal years. Resources have been earmarked for increasing the number of places by 16 in the 2014-2015 fiscal year and to provide an additional 16 places in the 2015-2016 fiscal year. In other words, the existing number of places for children with mild intellectual disabilities is 40 and there are 20 places for Integrated SGHs. The number of places will be raised from 40 to 72, in the hope that a greater effort can be made to deal with this problem pragmatically.

MR CHEUNG KWOK-CHE (in Cantonese): *President, the Secretary has not given me a full reply ...*

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

MR CHEUNG KWOK-CHE (in Cantonese): *... why can the age limit not be changed from 18 to 21 years? Why is this not possible?*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I have pointed out clearly that there are management issues in this. Members must understand that a SGH is managed by a houseparent. If the age differences among the children staying in it are too great, for example, if the range is six years to 21 years, in terms of the physiology and development of these children, there are many issues that have to be dealt with. Therefore, we must consider each case carefully but as I said just now, all of the 11 applications received were approved after considering their merits.

DR KWOK KA-KI (in Cantonese): *President, whenever students, in particular, students with mild or moderate intellectual disabilities have to leave SGHs, this will pose many problems to their families. The Secretary replied clearly just now that discretion would be exercised but may I ask the Secretary if the authorities should formulate a policy, so that appropriate residential care services can be arranged for mentally handicapped children aged 18 years or almost 18 years who have not yet completed their education, or for those who have reached 20 or 21 years of age? Not only can this measure help parents who are anxious like cats on a hot tin roof, it can also give another option to families in need of such services or the families of students who have received post-graduation training, thus easing the pressure on these families. Does the SWD or the Government have such a plan? If not, what are the reasons?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Dr KWOK for his supplementary question. Just now, I said that interface arrangements are in place in this regard, so their needs will not be disregarded because of the age limit of 18 years. As I explained in the main reply, some of the people concerned left for family reunion but some also wanted to live independently. For people aged 18 years or more requiring residential care services, we will provide them with supported hostel services. The recipients of such services are mildly mentally handicapped persons with 50% self-care ability in daily life, rather than severely mentally handicapped persons. As regards moderately mentally handicapped persons aged 18 years or more requiring residential care services, at present, hostels for moderately mentally handicapped

persons provide services to these people. In addition, currently, there are also residential care places for moderately mentally handicapped persons that provide vocational training and training in sheltered employment designed specifically for young people. Therefore, in terms of service provision, there are certainly interfaces, so they will not be neglected.

MR PAUL TSE (in Cantonese): *President, just now, the Secretary gave an overview of the arrangement for places in SGHs and said that preparations were being made to increase the number of such places. May I know if the supply of such places is very tight and the pressure is very great, so much so that the authorities are compelled to make the said arrangements? Or is there still great scope for exercising discretion, so that more of the affected children mentioned in the main question can continue to stay in these homes?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, generally speaking, the waiting time for places for the children with mild intellectual disabilities mentioned in Dr CHEUNG's main question is about 12 months at present. There are 15 people waiting to move into SGHs for Mildly Mentally Handicapped Children, whereas there are 19 children waiting to move into Integrated SGHs that also serve children with mild intellectual disabilities, so we understand where the problem is. As I said earlier, after obtaining the resources, the number of places will be increased in the next two fiscal years. Moreover, the original 40 places for children with mild intellectual disabilities will be increased drastically by 32, in the hope of relieving the waitlisting situation and solving the problem.*

DR FERNANDO CHEUNG (in Cantonese): *President, the Secretary said earlier on that the 11 applications received in the past few years had all been approved but some children with intellectual disabilities do not have parents or relatives to make applications for them, or their relatives or family members are unable to do so for them. The Secretary said in the main reply that 12 people had left for other residential care services, so may I ask how many people among them were actually arranged for moving into private residential care homes?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, only one person among them moved into a private residential care home and the great majority of them did not encounter any problem.

MR NG LEUNG-SING (in Cantonese): *On this issue, may I ask which official has the ultimate authority in processing applications for admission into SGHs? In addition, in the course of processing, if the requirements for admission are fulfilled, do Members of this Council have priority in arranging for their children to use such service?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank the Member for his supplementary question. All such cases are referred by social workers to the Central Referral System for Rehabilitation Services of the SWD. For the sake of fairness, all child applicants have to queue up and wait after undergoing assessments. As I said just now, generally speaking, the waiting time is about 12 months and their applications will be accepted after passing an assessment.

MR PAUL TSE (in Cantonese): *President, take divorce cases as an example, if children on maintenance payments have the need or are in schooling, the time limit can be extended to 21 years or older. In the same vein, if children with mild intellectual disabilities have genuine education needs, can their age limit for using such services be extended? For example, we do not necessarily have to set up SGHs, so is it possible to set up youth group homes instead?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have already made a very clear analysis. The threshold of 18 years is applicable only to SGHs because if the age range is too great, such issues as development and physiological maturity will be involved. Moreover, since there are both males and females, houseparents must handle this very carefully and this is also one of our considerations. However, in cases involving people aged over 18, applications can be made for moving into supported hostels. Such supported hostels are designed for people with only 50% self-care ability who cannot take care of themselves and require assistance. Staff are available in these hostels to provide semi-parental care, so that these grown-up children can lead

semi-independent lives. Therefore, we will assist them in their development at each phase and provide hostel places to them in a targeted manner at their rehabilitation stage.

MR LEUNG YIU-CHUNG (in Cantonese): *President, I also wish to follow up the adoption of 18 years as the age limit. As we all know, for normal people, 18 years old means reaching adulthood but for mentally handicapped persons or persons with other disabilities, their abilities and intelligence at 18 years of age may only be equal to or even lower than that of a normal person aged 10 or 12. If the Government still adopts 18 years as the threshold, I am worried that some of them will be forced to move back to their homes to live together with their family members, but the latter will have difficulty in caring for them. Can the Government review the arrangement of adopting 18 years as the threshold? Otherwise, this will pose a great deal of hardship and difficulty to carers. Moreover, the existing arrangement is also unsatisfactory. Can the Government reconsider this issue?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, I thank Mr LEUNG for his supplementary question. I have given a reply to this earlier on, saying that I appreciate Members' concerns. Notwithstanding this, as I have explained, the age limit of 18 years is prescribed on various grounds. If there is any special need, we will surely exercise discretion but regarding the question of whether or not the limit concerned will be raised to 21 years, further discussions will be necessary and we will listen to the advice of experts because I must respect the views of various parties, for example, we have to take into account the views of houseparents in SGHs. Six to 21 years is actually quite a great range. If they have to take care of a number of children of various ages, will they be able to cope? We must consider the actual circumstances but in respect of Members' concerns, I will have further discussions with the Director to explore if there is any room for fine-tuning.*

MR LEUNG YIU-CHUNG (in Cantonese): *Although the Secretary said he would have further discussions, my supplementary question is actually very precise. It asks him if a review can be conducted. He did not reply as to whether or not a review would be conducted, other than saying that he would have further discussions.*

PRESIDENT (in Cantonese): Secretary, the Member wants to ask if a review will be conducted.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am prepared to have further discussions with the Director, so that means conducting a review afresh.

DR LAM TAI-FAI (in Cantonese): *President, the Secretary said just now that the age limit could not be raised from 18 years to 21 years because management problems would arise. On hearing that, I felt very puzzled as to what kind of management problems would actually arise. Can the Secretary point out specifically and in gist the several types of management issues that would arise? Is it manpower management, policy management, bedspace management, or what other management issues are they?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Dr LAM for his supplementary question. What I said just now was rather simple, so maybe I can give a further elaboration here. These SGHs are not residential care homes *per se* but a non-institutional and home-like environment that enable children with the need to lead social lives. Eight people are arranged to live together in a unit of modest size. These children are aged between six and 18, whereas the age of recipients of ordinary SGH service may even range from four to 18, so the range is very great. If there are several people aged 18, 19 or even 21 years among them, together with other members of younger ages, it is inevitable that various management issues will arise because of the differences in age, physical development and gender. This is the concern raised by houseparents. However, as I said just now, we will examine all combinations, for example, in the 11 cases mentioned earlier on, after consideration, we also exercised our discretion to allow them to continue to live in SGHs. Therefore, my explanation just now is that this is one of the factors considered by us. Moreover, it is necessary to strike a balance among the development needs, physiological needs, social needs, and so on, of the children and make consideration from the angle of complementary facilities overall. However, I undertake that together with the Director, I will examine in depth whether or not the age limit can be extended to 21 years.

DR LAM TAI-FAI (in Cantonese): *President, I still do not quite understand what the management problems mentioned by the Secretary are about. Be it puberty management or physiological management, I really do not quite understand it. Can the Secretary explain specifically if management of the relevant aspects is very important? Because this will lead the Secretary to consider if the age limit will be extended to 19, 20, 21 or even 22 years in the future, so he has to tell me where the crux of the problem lies in and to which aspects do the management problems relate?*

PRESIDENT (in Cantonese): Dr LAM, the Secretary has already given a reply. I believe, given your intelligence, you fully understand the Secretary's reply but it seems you are not at all satisfied. Let me see if the Secretary has anything to add.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, simply put, having eight children live together in one place and given their different backgrounds, houseparents in SGHs have the responsibility to exercise supervision and deal with such problems as the growth, development, social interaction and behaviour of these children. This is not an ordinary family, so it is necessary to consider these factors and balance the needs of various parties. However, if there is any special need, we can exercise discretion to allow people aged over 18 to continue to stay in SGHs.

MR CHEUNG KWOK-CHE (in Cantonese): *President, in fact, I also wish to pursue this issue further. The Secretary said that flexibility in the age limit can be allowed having regard to the merits of individual cases, but I wish very much to know how he applies flexibility. The word "flexibility" can cover a very large scope but it can also cover a small scope. Therefore, even if he cannot give me a reply today, I still hope the Secretary can provide figures later to illustrate in how many cases flexibility was applied from 2009 to the present, as well as the factors that will lead to flexible treatment, so that we know in which areas flexibility can be applied.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I am happy to provide the relevant information. (Appendix I)

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

Disruption of Railway Services

3. **DR LAU WONG-FAT** (in Cantonese): *President, it has been reported that train services were disrupted for several times last year due to malfunctioning, and quite a number of passengers were late for school or work due to delay in their journeys. Recently, such failure incidents have occurred more frequently. In this connection, will the Government inform this Council whether it has considered appointing an independent committee or rail transport consultant to conduct a comprehensive study on the operational problems of the railways in Hong Kong, including:*

- (1) *whether the transfer of the operation of the railways (including the East Rail, West Rail, Light Rail, and so on) operated by the then Kowloon-Canton Railway Corporation (KCRC) to the MTR Corporation Limited (MTRCL) by the Government, which has resulted in the MTRCL having to concurrently manage a number of railways, has exerted excessive pressure on the operation of the MTRCL; and*
- (2) *whether the operation of railways outside the territory by the MTRCL has distracted its attention away from the local operations, resulting in its neglect of operational problems of the railways in Hong Kong?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, Hong Kong is one of the least private car-dependent big cities in the world. Of the approximate 13 million passenger trips every day, 90% are made by public transport among which rides on the railway account for about 40%. Therefore, the operation of a safe, reliable and efficient railway service is paramount to our public transport system.

With respect to train service reliability, the number of incidents of eight minutes or above of the MTRCL was 143 last year, the lowest since the rail merger in December 2007. Despite not showing any downward trend in the

safety and reliability of the MTR train service in accordance with the overall statistics, the Government considers that, on the service-oriented premise, immediate and in-depth investigation into every train service incident must be carried out by the MTRCL, followed by improvement measures to prevent future recurrence. Being the railway safety regulator, the Electrical and Mechanical Services Department (EMSD) will also conduct investigations and follow up with the MTRCL. Meanwhile, the MTRCL also needs to take actions to alleviate crowdedness inside train compartments during peak hours.

As the causes of the recent major service disruption incidents were respectively attributable to the installation of overhead lines and the quality of insulators used, the successive occurrence of these incidents may be a sign of systemic defects of the overhead line system. As such, we believe that an in-depth review by an independent expert is necessary for greater reassurance for the public. The Government agrees with the MTRCL's engagement of an overseas independent expert to conduct a comprehensive review on the MTR's overhead line system, covering key aspects like technical specifications, procurement, quality control, installation and repairs/maintenance.

In parallel, the EMSD will actively participate in the MTRCL's tests of the insulators and verify the findings. The EMSD will also engage an independent expert to evaluate the outcome of the MTRCL's expert review. The participation of double independent experts in the review will ensure an in-depth, comprehensive, objective and professional study. In the light of the findings of the EMSD's independent expert, the Government will decide whether there is a need to expand the scope of the review to cover other areas of the MTR network.

As the current railway safety regulatory regime allows for the engagement of international and independent experts to assist in studies and reviews, it is not necessary to appoint an independent committee or rail transport consultant.

My reply to Dr LAU Wong-fat's question is as follows:

- (1) Under the specific arrangements of the rail merger in December 2007, the staff and management (except the Chief Executive Officer and some administrative support staff totalling less than 10 employees) of the then KCRC, their professional knowledge and experience, together with the KCRC's assets, were all taken over by

the MTRCL. Not only has the railway network managed by the MTRCL been enhanced after the merger, its professional manpower, knowledge and experience has also been enriched. Thus, the problem of the MTRCL not being able to concurrently manage a number of railways does not exist. On the contrary, after the rail merger, the overall competitiveness of the railway service has been enhanced and synergies realized through integration of manpower resources and complementary development of strengths between the two corporations. This not only enhances the service quality but is also conducive to the continued business growth of the MTRCL.

Responsible for train operations and repairs/maintenance, the post-merger Operations Department has maintained its manning level at about 8 000 to 9 000. As at January this year, its staffing has exceeded 10 000. The MTRCL will, in the light of the operating need of existing railway lines and the commissioning of new railway lines, employ additional manpower from time to time. In fact, the number of managerial and front-line staff responsible for per kilometre rail length was 73 in late 2013, the highest ever when compared to approximately 60 before the rail merger in 2007.

- (2) The development of businesses outside Hong Kong (including those in the Mainland, Europe and Australia) helps the MTRCL expand its sources of revenue. Take 2013 as an example, the profits from Mainland and overseas businesses accounted for around 6% of the Corporation's underlying business profits. Besides, the MTRCL can enrich its global management experience by exploring businesses outside Hong Kong, bringing the corporate branding effect into play. At present, all profits generated by Mainland and overseas operations are included in the Corporation's underlying business profits, part of which are shared with passengers in Hong Kong vide the "10% Same Day Second Trip Discount" under the "profit-sharing" scheme introduced after the review on the Fare Adjustment Mechanism of MTRCL in 2013.

That said, the MTRCL must pursue its businesses outside Hong Kong on the premise of keeping its primary focus on the local railway service. I have always, at the Board of the MTRCL, reminded the Corporation not to put the cart before the horse and

explore Mainland and overseas businesses at the expense of local service. The MTRCL undertakes that the development of local businesses will not be adversely affected by its pursuit of businesses in the Mainland or abroad. In fact, the Corporation's staff in the Mainland and overseas are mostly recruited domestically instead of being deployed from Hong Kong.

At present, the MTRCL has about 16 000 employees in Hong Kong, among which less than 1% are responsible for Mainland and overseas businesses. These 130 or so employees are mostly middle managerial staff. The MTRCL employs about 8 700 employees in the Mainland and about 7 000 employees in Europe and Australia.

DR LAU WONG-FAT (in Cantonese): *President, apart from railway operation, the MTRCL has also engaged in real estate development, property management and operation of shopping arcades. In the next few years, the MTRCL will also operate a number of extensions which are going to be completed one after another across the territory, including the West Hong Kong Island Line, the Shatin to Central Link, the Kwun Tong Line Extension, the South Hong Kong Island Line, and an express rail link which is a brand new project for the MTRCL because of its lack of experience in operating rail links of this sort. Meanwhile, as a listed company, the MTRCL has used every means conceivable to take care of the interest of its shareholders. May I ask the Government whether measures have been taken to prevent the MTRCL from failing to properly manage its exceedingly large and multifarious businesses and hence adversely affecting its mainstream railway service and jeopardizing the interest of the public at large?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, owing to the development of the MTR railway networks and its previous financing model of combining railway and property, the MTRCL has been able to develop some superstructures and facilities evolving around railway stations and superstructure developments, such as shop premises, retail outlets, and so on. Today, the businesses of the MTRCL are indeed diversified. As I pointed out in the main reply, however, the primary focus of the MTRCL is the local service, and that of its local service is transport service. Other businesses must be pursued in the light of transport development. Hence, as the majority

shareholder of the MTRCL, the Government is perfectly clear about its positioning.

Certainly, we understand that the MTRCL, being a listed company, has minority shareholders. Although the Government now holds more than 76% of the MTRCL's shares, we must carefully strike a balance between the interests of the Government as the majority shareholder and other minority shareholders. Certainly, the Government as the majority shareholder must concurrently take care of the transport needs of the general public and Hong Kong society. As I said earlier, the primary focus of the MTRCL is transport service. Hence, we will carefully and meticulously balance the role played by the MTRCL in this respect. Government representatives sitting on the Board will remind the MTRCL of the developments in this respect from time to time, too.

(Mr Gary FAN stood up)

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

MR GARY FAN (in Cantonese): *I had already pressed the "Request to speak" button and the indicator light was on when we were proceeding to this oral question. However ...*

PRESIDENT (in Cantonese): Your name is displayed on the list of Members waiting to speak.

MR GARY FAN (in Cantonese): *I know, but I wish to point out that, after Secretary Prof Anthony CHEUNG had finished his reply, the number of Members waiting to speak as displayed on the screen was still zero and the light was subsequently turned off. So, another Member and I have to press the button again ...*

PRESIDENT (in Cantonese): The problem has already been rectified.

MR GARY FAN (in Cantonese): *OK, I was afraid of losing the opportunity to speak.*

PRESIDENT (in Cantonese): It has been rectified, so please wait for your turn assured.

MR TANG KA-PIU (in Cantonese): *Mr FAN, our opportunities are equal. I also encountered the same situation earlier.*

The reply delivered by the Secretary just now appeared to be watertight, but I do not believe the Government can really exercise watertight control over the MTRCL. As the occurrence of several MTR incidents was attributed to systemic problems, I do not believe the 10 to 20 engineers in the Railways Branch of the EMSD are capable of exercising watertight control over such a large "monster". I would like to ask a question. Under the Mass Transit Railway Ordinance, the Chief Executive may appoint three persons to the Board of the MTRCL. Although regulation of MTR fares and calls for lowering fares might run counter to the interest of minority shareholders, calls for enhanced safety and service quality are not. The Government has now appointed two persons to the Board of the MTRCL. May I ask if it has considered expeditiously appointing a third person to the Board of the MTRCL for enhanced regulation?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the Government can certainly appoint one more director to the Board of the MTRCL, but I think Members should be aware that the operation of the MTRCL is not determined by the number of directors appointed by the Government. After all, even with an additional director from the Government, the directors appointed by the Government are still in the minority. In fact, we should pay more attention to the mission of the MTRCL. Both the Government as the majority shareholder and the MTRCL as the operator take MTR safety seriously, and safety is of paramount importance. Mr TANG was right in saying that this had nothing to do with the interests of minority or majority shareholders. I believe even minority shareholders hope that the MTRCL can maintain operational safety. Only in this way can the MTRCL have further room for development.

In the light of the successive occurrence of some incidents recently, the Government is more concerned about the existence of systemic problems. I have even publicly said that there is a need to examine whether the system has ageing problems due to prolonged use. The MTRCL has responded promptly by appointing overseas experts to conduct systematic evaluations. The EMSD will conduct systematic evaluations and appoint overseas experts, too. Hence, I hope that the double engagement of independent experts conduct evaluations can ensure a more objective, in-depth and comprehensive understanding of the crux of the problem. The Government attaches great importance to safety. Owing to the occurrence of successive incidents recently, we consider that there is a need to attach more attention to this respect.

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

MR TANG KA-PIU (in Cantonese): *The Secretary has not answered clearly as to whether the Government will absolutely not consider appointing an additional director. I gather from the Secretary's response that, even though he himself is a director, he has the zeal to do something but not the power. Am I correct?*

PRESIDENT (in Cantonese): Your question is very clear. Secretary, can you respond to the question raised by the Member regarding the appointment of an additional director?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, if there is room to do so, the Government will certainly not rule out the arrangement of appointing more directors. However, as I pointed out in reply to Mr TANG earlier, the crux of the matter does not lie here.

MR POON SIU-PING (in Cantonese): *It was due to the frequent occurrence of MTR incidents that Dr LAU Wong-fat raised a question on whether the Government would consider appointing an independent committee to conduct a comprehensive review of the operation of the MTRCL. Certainly, as the Secretary pointed out in his reply just now, the MTRCL may engage international and independent experts to conduct studies, and the EMSD will also conduct*

expert studies, which means the double engagement of independent experts in the studies. I wonder when the findings of the two studies will be announced. Is it the case that the Government will not consider appointing an independent committee to conduct a comprehensive study on the operation of the MTRCL until there are discrepancies between the findings of the two studies?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, in the main reply to the question raised by Dr LAU Wong-fat earlier, I explained that as the current mechanism allows for the engagement of international and independent experts to assist in studies, reviews, investigations, and so on, it is not absolutely necessary to appoint an independent committee. That said, it does not mean that a commission of inquiry cannot be set up even when we encounter major incidents of serious consequences. I may provide Members with some information. In 2004, in the light of a spate of MTR network incidents, including rail fractures, the then MTRC engaged international and independent railway experts to conduct a comprehensive review of the performance of the MTRC and its repairs and maintenance work. Likewise, in 2004, the Kowloon-Canton Railway Corporation (KCRC) engaged an independent company from the United States to conduct an independent review of the operation and maintenance of the signalling system of the West Rail. Relevant feasibility studies are thus entirely possible. With regard to recent MTR incidents, however, in view of the double engagement of independent experts in the evaluations, we consider the existing arrangement appropriate. We will certainly deal with discrepancies between the findings, if any. At the end of the day, the Government will definitely regard the evaluations made by the EMSD as the most important reference because it is responsible for regulating railway safety.

MR LEE CHEUK-YAN (in Cantonese): *The public are really very dissatisfied with the MTR service. As everyone knows, people with a destination will definitely experience great chaos in the event of train service disruptions. Hong Kong people are already trapped inside a "pressure cooker" when commuting between their homes and workplaces. The MTRCL is actually doing a disservice to the public if MTR incidents occur frequently. The public will think that the MTRCL only knows how to raise fares but not improve its service. The reply given by the Secretary just now seems to imply that the Government will conduct an independent study only after the occurrence of an incident, such as*

overhead lines will be examined only when they fail. My question is: Will the Government conduct a comprehensive review? I consider the reply given by the Secretary irresponsible ...

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

MR LEE CHEUK-YAN (in Cantonese): ... *my supplementary question is whether the Government will conduct a comprehensive review rather than focusing its study on an incident after it has occurred. Moreover, I do not know whether the Secretary is giving his reply as a director of the MTRCL or a public officer. Nevertheless, he is equally irresponsible regardless of the capacity in which he speaks.*

PRESIDENT (in Cantonese): Mr LEE, you have already raised your supplementary question, so please let the Secretary give a reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, during Question Time of the Legislative Council, all public officers speak in their capacity as such. Hence, in answering all the questions put to me just now, including the first question raised by Ms Starry LEE, I was speaking in my capacity as Secretary for Transport and Housing.

I concur with the situation mentioned by Mr LEE just now. First of all, insofar as the general public are concerned, it is most crucial for the MTR system to maintain an efficient service. Second, the occurrence of any incident will not only arouse safety concern but also cause service disruptions and delays, something the public do not wish to see. Neither do we consider that the MTRCL should regard these disruptions and delays as normal. It is precisely because we do not treat delays as normal that the Government attaches great importance to every incident, including regulating safety through the EMSD. We demand that the MTRCL ascertain the cause of an incident promptly to find out what has happened.

Recently, in the light of certain conditions exposed as a result of the problems encountered by the East Rail with the quality of insulators, the MTRCL has adjusted its concept about the relevant services or maintenance. In the past, the MTRCL attached greater importance to whether every detail, accessory or systemic arrangement would affect safety. Recently, in the light of the relevant reviews, the MTRCL has added a new perspective, that is, whether services will be affected. In other words, even if safety is maintained, suspensions of train service for one hour or two will have very serious impacts on transport in general. Hence, the MTRCL has adjusted its concept lately.

On the other hand, the EMSD has also expressed grave concern about the recent incidents. Therefore, it has further enhanced its risk assessment as the basis for routine inspection of MTR service to identify areas requiring more inspections to ensure that the entire system is safe and reliable.

PRESIDENT (in Cantonese): Mr LEE, what is your question? Please briefly repeat your supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *Will the Government conduct a comprehensive review instead of taking stopgap measures?*

PRESIDENT (in Cantonese): Secretary, will a comprehensive review be conducted?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): As I said just now, the MTRCL is now conducting a review of the overhead line system, and we are waiting for the completion of the review. In parallel, the EMSD will separately engage independent experts for double reviews. If we consider it necessary to further expand the scope of review after examining the findings of the final review conducted by the EMSD, we will do that.

MR GARY FAN (in Cantonese): *I would like to follow up part (2) of the main reply given by the Secretary just now. He emphasized that he had always, at the Board of the MTRCL, reminded the Corporation not to put the cart before the horse and explore Mainland and overseas businesses at the expense of local*

services. May I ask whether this principle is supported by any measures and indicators as reference for us? Because the Secretary went on to say that, according to projection, the MTRCL has employed 15 870 staff in Hong Kong. However, the number of staff employed outside Hong Kong (including the Mainland and Europe) has reached 15 830, only 40 less, but only 6% of the Corporation's underlying business profits is generated by them. With both sides employing more than 10 000 staff, 94% of the Corporation's underlying business profits are generated in Hong Kong. Although 15 800-odd staff are employed outside Hong Kong, only 6% of the Corporation's underlying business profits are generated there. First of all, this is a cost-effectiveness issue. Second, are there any indicators or measures to realize or manifest the remarks made by the Secretary that the cart must not be put before the horse to ensure a reasonable ratio between local and overseas businesses?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):

President, if we merely look at the number of staff employed outside Hong Kong, we might have the same query as Mr FAN did. However, we must understand that the MTRCL's overseas businesses were mostly developed during the past couple of years. During that period, operational manpower demand was naturally inevitable, but it would take a relatively long time to yield proceeds and returns. The situation was the same when new railway lines were developed locally. For instance, the several new railway lines under construction have yet to have commuters and proceeds, but expenses, particularly capital investments, must be incurred in the first place.

Mr FAN's concern about the long-term balance between the MTRCL's local businesses and businesses in the Mainland or abroad is also the Government's concern. We attach great importance to whether the MTRCL will explore Mainland and overseas businesses at the expense of local service. But to date, the number of local people engaging in businesses outside Hong Kong is still very small. As we are aware of the concern about this issue in society, we will be watching it closely.

Meanwhile, regarding the returns for the MTRCL as a whole from different business areas, the MTRCL is being watched by the whole society, the investment sector or the market because it is a listed company. Hence, it is impossible for the MTRCL to go unnoticed by society should it engage in businesses with zero return and efficiency.

MR GARY FAN (in Cantonese): *The Secretary has not answered my supplementary question which is actually about whether there are any measures or indicators. Yes or no?*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I can only say that the Government has been monitoring the overall business development of the MTRCL in different areas, including local businesses and businesses in the Mainland or abroad. I have mentioned in the main reply that the primary focus of the MTRCL is local businesses. Besides transport service, real estate development, retail outlets and commercial facilities such as shopping arcades are also among the MTRCL's diversified businesses. From the perspective of the Government, however, the primary focus of the MTRCL must be the transport service.

PRESIDENT (in Cantonese): We have spent nearly 24 minutes on this question. Fourth question. Dr CHIANG Lai-wan.

(Mr Tony TSE stood up)

MR TONY TSE (in Cantonese): *I would like to ascertain whether or not my button has failed. Just now, I also pressed the "Request to speak" button. May I know if my name has been recorded on your waiting list?*

PRESIDENT (in Cantonese): The waiting list has no record of Mr Tony TSE requesting to speak.

MR TONY TSE (in Cantonese): *I did press the button. I did so when the previous oral question was being dealt with. I would like to check whether or not my "Request to speak" button is functioning because I have waited for a long time for my turn to ask questions.*

PRESIDENT (in Cantonese): We will ask technicians to look into it.

MR TONY TSE (in Cantonese): *Thank you, President.*

(Mr CHAN Chi-chuen stood up)

MR CHAN CHI-CHUEN (in Cantonese): *President, I have a similar problem. I believe I have pressed the button, but ...*

PRESIDENT (in Cantonese): Mr CHAN, your name was recorded on the waiting list.

MR CHAN CHI-CHUEN (in Cantonese): *That was because you have re-set the programme, and so I have to turn off the button and press it again. As a result, I was at the end of the queue.*

PRESIDENT (in Cantonese): That was not the case. It is because you have raised questions on 10 occasions. Those Members whom I called upon just now to raise supplementary questions were placed in front of you because they have all asked questions on less than 10 occasions. It has nothing to do with whether you pressed the button sooner or later.

Fourth question.

Rising Costs in Public Works

4. **DR CHIANG LAI-WAN** (in Cantonese): *President, it has been learnt that recently, the expenditures of several public works projects have substantially exceeded the Approved Project Estimates (APE) due to rising commodity prices and shortfalls of construction workers, and so on. In this connection, will the Government:*

- (1) *set out in table form the title, estimated costs and date for submission of each public works project which the authorities have planned to*

submit to the Finance Committee of this Council for approval within the next two years; and among the projects which have commenced or are yet to commence, the title and approved project estimate of each of the projects for which the authorities have envisaged that application for supplementary provisions to the Finance Committee will be required within the next two years, as well as the amount of supplementary provision to be applied for;

- (2) *set out in table form the estimated number of public and private construction works projects which will commence within the next four years, as well as the respective numbers and shortfalls of workers and management personnel of various trades of the construction industry in the period; and*
- (3) *inform this Council, as it has happened from time to time that the authorities had to apply to the Finance Committee for supplementary provisions because of cost overrun in public works projects, whether the authorities have reviewed the existing process for calculating the project estimates of public works projects, with a view to narrowing the gap between the estimated and the actual expenditures so that the projects can be completed on time without the need to apply for supplementary provisions; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, infrastructure investment has helped propel Hong Kong's economic development and enhance the quality of life of the general public. With the commencement of many major infrastructure projects, annual expenditure in the Capital Works Programme (CWP) has gradually increased from \$45.3 billion in 2009-2010, and is expected to maintain at a level exceeding \$70 billion for 2013-2014 and the few years to come.

On the other hand, the booming private property market in the past few years has given rise to a sustained demand for construction services. Since 2009, construction worker wages and materials costs have increased by over 30% and the Building Works Tender Price Index has risen by 60%, reflecting a tight manpower situation and sustained escalation in construction cost that the construction industry is facing.

Having consulted the Financial Services and the Treasury Bureau, my reply to Dr CHIANG's question is as follows:

- (1) About 40 projects will be submitted to the Finance Committee for approval in the remaining sessions of the current Legislative Council year. As information on the projects has been listed in Annex 1, I will not read them out one by one.

As for the projects intended to apply for increase in APE, at the moment we are only aware of the "Liantang/Heung Yuen Wai Boundary Control Point and associated works — site formation and infrastructure works", details of which would be submitted later for deliberation in the relevant panel.

Information on capital works items to be submitted to the Finance Committee for funding approval or increase in APE in the next Legislative Council Session is not yet available. The Administration will draw up the relevant plan after taking into account various factors such as works progress, justifications, urgency and cost-effectiveness of the items as well as the Government's affordability. According to the established practice, we will submit to the Public Works Subcommittee in a timely manner an overview of capital works items planned for seeking the Public Works Subcommittee's approval in the next Legislative Council Session.

- (2) Information on the capital works projects with funding already approved by the Finance Committee and also to be commenced within one year is in Annex 2, so I will not go through them one by one. As for the launch of other public and private construction projects, they would be affected by the economic environment and other factors. Hence, it would be difficult to provide the exact figures at this moment. However, according to the latest forecast released by the Construction Industry Council (CIC) in end October 2013, the overall construction expenditure in the next few years would be maintained at a range of \$160 to \$190 billion annually.

Currently, construction workers are registered as skilled workers/semi-skilled workers under the respective trades, or as general workers according to the "Construction Workers

Registration Ordinance". The statistics of workers of different trades are voluminous and have been uploaded to the website of the CIC. Dr CHIANG may refer to the website <www.hkcic.org> for details. They are therefore not listed in this reply.

Having regard to the latest manpower forecast study conducted by the CIC and taking into consideration relevant factors including the construction expenditure forecast, the number of in-service registered workers, retirement of workers and local workers working outside Hong Kong, we project that in the next four years, the industry will need over 30 000 additional construction workers, in which over 20 000 are skilled workers. Yet, the manpower supplied by training is not included in the above estimates. However, the graduate trainees are only semi-skilled workers and it takes time for them to enhance their skills to reach the productivity level of skilled workers.

We will continue to strive to meet the manpower demand by training and attracting more new entrants to the industry. The CIC will also continue to implement various initiatives to better utilize the potential workforce of the construction industry, which covers the unemployed and underemployed workers, and workers who have left the construction industry. Nevertheless, we project that from now till 2017, the industry will need nearly 10 000 to more than 10 000 additional skilled workers. Therefore, with due regard to the principle of not affecting the employment and reasonable income levels of local construction workers, we need to make full use of the "Supplementary Labour Scheme" to import skilled workers in a timely manner.

In addition, the CIC is conducting a manpower forecast study on projecting the supply and demand of construction professionals, site supervisors/technicians and workers over a 10-year horizon. The findings will be available in the second half of this year.

- (3) Regarding Member's concern on cost estimation for public works projects, I have to point out that the Government has established mechanisms to develop and review project estimates. All Works Departments have set up dedicated committees to vet the estimates

of all public works projects under their purview. They are also required to maintain updated unit cost database, taking into account the latest trend of labour cost, material costs, and so on, for estimating project costs.

In fact, among the Category A projects approved by the Finance Committee in the past 10 Legislative Council Sessions, about 10% required increase in the APE, and the amount involved accounts for only about 3.4% of the original approved funding. Although individual projects required additional funding under some special situations, for the overall CWP, we can complete all the projects within the original APE. For example, for the total expenditure of the completed projects commenced during the period from 2003-2004 to 2007-2008, although individual projects required additional funding, surplus from other projects could cover the additional funding required, and also contributed to a net saving of around \$5 billion for reverting to the Treasury. This has reflected the proven capability of Works Departments in estimating project cost and controlling project expenditure.

On the other hand, in order to enhance the delivery capacity of the construction industry, thereby reducing project costs, we have implemented a series of measures, including:

- Providing forecasts on public and private construction expenditure through the CIC for the industry stakeholders' reference;
- Introducing the Innovation and Creativity Screening (ICS) procurement approach;
- Widening adoption of New Engineering Contract (NEC) form, in order to strengthen risk management and introduce pain share/gain share mechanism for construction cost;
- Implementing measures to attract more contractors and consultants, both local and overseas, into the construction market; and

- Actively exploring ways to achieve a more balanced workload distribution among different contractor groups.

Regarding construction cost control, we are conducting a study on the cost components of construction contracts and carrying out a survey on contractor's tendering considerations. We are also preparing for legislation on security of payment to reduce contractor's financing costs resulting from improved cashflow.

Annex 1

Capital works items forecast to be submitted to the Finance Committee for approval in the 2013-2014 Legislative Session

	<i>Forecast month to be submitted to the Finance Committee</i>	<i>Project code</i>	<i>Project title</i>	<i>Estimated cost (in money-of-the-day prices)</i>
1	May 2014	4399DS	Relocation of Sha Tin sewage treatment works to caverns (Part upgrade of project)	\$640 million
2		4401DS	Feasibility study on relocation of Sham Tseng sewage treatment works to caverns	\$40 million
3		4402DS	Feasibility study on relocation of Sai Kung sewage treatment works to caverns	\$40 million
4		5043CG	Greening Master Plans for the New Territories (Part upgrade of project)	\$350 million
5		5163DR	Northeast New Territories landfill extension	\$7,320 million

	<i>Forecast month to be submitted to the Finance Committee</i>	<i>Project code</i>	<i>Project title</i>	<i>Estimated cost (in money-of-the-day prices)</i>
6		5164DR	Southeast New Territories landfill extension	\$1,990 million
7		5165DR	West New Territories landfill extension (Part upgrade of project)	\$40 million
8		5172DR	Organic waste treatment facilities phase 1	\$1,530 million
9		5177DR	Development of integrated waste management facilities, phase 1	\$18,250 million
10		5768CL	Strategic studies for artificial islands in the Central Waters	\$230 million
11		7284RS	Signature Project Scheme (Kwai Tsing District) — enhancement of community healthcare	\$7.7 million
12		7747CL	Advance site formation and engineering infrastructure works at Kwu Tung North new development area and Fanling North new development area (Part upgrade of project)	\$340 million
13		7770CL	Planning, engineering and architectural study for topside development at Hong Kong boundary crossing facilities island of Hong Kong-Zhuhai-Macao Bridge	\$60 million

	<i>Forecast month to be submitted to the Finance Committee</i>	<i>Project code</i>	<i>Project title</i>	<i>Estimated cost (in money-of-the-day prices)</i>
14		7822TH	Cross Bay Link, Tseung Kwan O (Part upgrade of project)	\$70 million
15		8070MM	Redevelopment of Queen Mary Hospital (phase 1) (Part upgrade of project)	\$1,600 million
16		9195WC	Feasibility study on relocation of Diamond Hill fresh water and salt water service reservoirs to caverns	\$50 million
17	June 2014	3056RG	Government Complex in Area 14 (Siu Lun), Tuen Mun	\$1,190 million
18		3065JA	Construction of Rank and File Quarters for Customs and Excise Department at Yau Yue Wan Village Road, Tseung Kwan O	\$590 million
19		3066RE	Expansion and Renovation of Hong Kong Museum of Art	\$890 million
20		3107ET	A school for social development for girls at Choi Hing Road, Kwun Tong, Kowloon	\$350 million
21		3108ET	Two special schools at site 5C-5, Kai Tak development, Kowloon	\$490 million
22		3237LP	Kowloon East Regional Headquarters and Operational Base-cum-Ngau Tau Kok Divisional Police Station	\$2,850 million

	<i>Forecast month to be submitted to the Finance Committee</i>	<i>Project code</i>	<i>Project title</i>	<i>Estimated cost (in money-of-the-day prices)</i>
23		3273RS	Sports centre in Area 24D, Sha Tin	\$600 million
24		3354EP	A 36-classroom primary school in Area 36, Fanling	\$410 million
25		4160DS	Tuen Mun sewerage, stage 1 (Part upgrade of project)	\$600 million
26		4346DS	Upgrading of Tuen Mun sewerage, phase 1 (Part upgrade of project)	
27		4388DS	Shek Wu Hui sewage treatment works — further expansion phase 1A (Part upgrade of project)	\$480 million
28		5180DR	Development of the Waste Electrical and Electronic Equipment Treatment and Recycling Facility	\$540 million
29		5751CL	Planning and engineering study on Sunny Bay reclamation	\$100 million
30		5769CL	Pilot study on underground space development in selected strategic urban districts	\$70 million
31		6855TH	Road improvement works for West Kowloon Reclamation Development (Phase 1)	\$810 million

	<i>Forecast month to be submitted to the Finance Committee</i>	<i>Project code</i>	<i>Project title</i>	<i>Estimated cost (in money-of-the-day prices)</i>
32		7756CL	Ma On Shan development — roads, drainage and sewerage works at Whitehead and Lok Wo Sha, phase 2	\$220 million
33		7763CL	Integrated Basement for West Kowloon Cultural District (Part upgrade of project)	\$3,940 million
34		8093EB	Construction of an annex to Baptist Lui Ming Choi Secondary School, Shatin	\$150 million
35		9347WF	Reprovisioning of Harcourt Road fresh water pumping station	\$740 million
36		B197SC	Reprovisioning of Pak Tin Community Hall and special child care centre-cum-early education and training centre in Pak Tin Estate redevelopment site, and construction of footbridge link at Nam Cheong Street, Sham Shui Po	\$300 million
37	July 2014	6810TH	Retrofitting of noise barriers on Tuen Mun Road (Town Centre Section)	\$520 million
38		8003MQ	Refurbishment of Hong Kong Buddhist Hospital	\$480 million
39	Within 2014	7049TF	Construction of additional floors at Central Piers Nos. 4, 5 and 6	\$710 million

Public Works Projects (PWP) with Funding Approved by
the Finance Committee and Works to be Commenced within One Year

<i>Bureau/Department</i>	<i>PWP No.</i>	<i>PWP Title</i>	<i>Anticipated Commencement Date</i>
EDB	8094EB	Redevelopment of Ying Wa Girls' School at Robinson Road, Hong Kong	The First Half of 2014
CEDD	7448RO	Improvement Works for Mui Wo Facelift, Phase 1	The Second Half of 2014
CEDD	7160TB	Footbridge across Po Yap Road linking Area 55 and Area 65, Tseung Kwan O	The First Half of 2014
CEDD	B742CL	Main engineering infrastructure in association with the proposed developments at Area 56 in Tung Chung	The First Half of 2014
CEDD	7774CL	Development of Anderson Road Quarry site — detailed design and site investigations	The First Half of 2014
ArchSD	B195SC	Community Hall at Sau Ming Road, Kwun Tong	The First Half of 2014
HAB	8028QJ	Expansion and improvement of Wanchai Campus of the Hong Kong Academy for Performing Arts	The Second Half of 2014
ArchSD	3277RS	Sports centre between Tsuen Wan Park and Tsuen Wan Road, Tsuen Wan	The First Half of 2015

DR CHIANG LAI-WAN (in Cantonese): *President, I think the Secretary and Members will know that the prevailing high costs are attributable mainly to the fact that a large number of works projects were launched in 2013. As costs are too high, private developers do not dare take up certain projects. We can see that a lot of projects are presently underway and these apply especially to many large-scale infrastructure projects, MTR and Express Rail projects, and so on. It may be in 2017, 2018 or even 2020 that these projects can be completed. Given the manpower shortage problem now, the Secretary says that an additional 30 000 workers will have to be hired. Since this is the case, will the authorities consider launching these works projects in phases? This can ensure that construction workers will have steady work long term and pre-empt the situation of some people demanding that workers be imported or workers being suddenly deprived of work when these works projects cannot be completed on schedule. If the authorities can launch these projects a bit slower, will this result in a reduction of costs? I can see from the main reply given by the Secretary in which a large number of projects are set out and although some of these projects are studies, the total number is still more than 40. Actually, some of these projects are not urgent and they do not necessarily have to go ahead at once ...*

PRESIDENT (in Cantonese): Dr CHIANG, you have raised your supplementary question, please let the Secretary give his reply.

DR CHIANG LAI-WAN (in Cantonese): ... Yes, thank you.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Dr CHIANG for the question.

On the matters raised by Dr CHIANG, the construction sector has also brought them to the attention of the Government. However, we have to point out that as much as we wish to exert our best, we hope that these construction works projects can be launched in a steady manner so that it would be easier for the market to digest these projects. However, there are also certain objective conditions which will hamper the progress of these projects. Examples are the delays caused to certain projects during consultation. This is because we have to address the concern of different stakeholders during the consultation period and so delay is caused to these works projects. And there are also works projects

which after commencement for some time have met challenges in law such as judicial reviews. Apart from these, there are also projects which after commencement entail other related works. Examples are the Central-Wanchai Bypass and the railway projects undertaken by the MTRCL. So we cannot call a halt to certain projects.

In addition, with respect to land supply, there is preliminary work that we have to carry out. We understand the concern of Members and the sector. Before the Government launches any projects, as I have said in the main reply, we will take into account various factors like cost-effectiveness, time and financial affordability of the Government, and so on. We will exert our best in co-ordination.

MR MARTIN LIAO (in Cantonese): *President, the Secretary pointed out in the main reply that with respect to the total expenditure of completed projects commenced during the period from 2003 to 2008, they have reflected the proven capability of the Works Departments in estimating project cost and controlling project expenditure. I am sure many people will take exception to this conclusion.*

In fact, there are numerous examples of public works projects experiencing cost overrun. In the case of the West Kowloon Cultural District, if it is to be constructed according to the present plan, the cost will surge drastically from some \$20 billion to some \$40 billion. For the Lintang/Heung Yuen Wai Boundary Control Point and associated works, it is estimated that the cost will soar by 50%. Earlier on, the proposal of Radio and Television Hong Kong (RTHK) on constructing a new building has increased by close to three times and the amount is stunning.

As a matter of fact, these large infrastructure projects with cost overruns of more than \$100 million have almost become a general rule. Even if supplementary provisions can be obtained, it would be hard to ensure that these projects will not become a black hole during their construction period which lasts a few years and so taxpayers are placed in a helpless and vulnerable position.

Cost overruns in these major projects may have their individual specific reasons, but the main problems faced by these projects in common are the rising costs in construction materials and equipment as well as the substantial increase

in workers' wages as a result of the manpower shortage. In addition, the established practice of the Government is unable to stabilize cost expenditure and this increases the risk of cost overrun in these projects. Projects planned by the authorities have always been delayed and costs have increased due to inflation and there may also be institutional defects as well.

In this connection, may I ask the Government what measures it has in place to control cost expenditure and enhance efficiency in order to prevent substantial increases in the expenditure of major infrastructure projects?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the Government has been very concerned that over a period in the past, the cost of construction works projects has actually increased substantially. We all know that since the year 2009, the wages and prices of materials have increased respectively by more than 30% and the rate of increase as compared to the tender price is about 27%. And the Building Works Tender Price Index has risen by some 50% during the same period. We have studied from a number of aspects how this impact can be reduced. As to the question of how the manpower problem caused by shortage of workers can be addressed, I have talked about it in my main reply. For construction, we will consider various methods and designs in construction and use more standardized designs and prefabricated parts to reduce cost. Work in these aspects have all along been done.

As for the number of cases mentioned by Mr LIAO just now, the situation of each of these cases is not the same. I must point out that with respect to certain applications for funding which were subsequently not approved, such as the RTHK project, the situation is not that it is an application for supplementary provision after Members have given their approval for funding and it is felt that the funding is not enough. It is when the application for funding was made, the amount was substantially different from the estimates originally submitted to the Legislative Council. And in the interim there was also updated information in the estimates which to a certain extent was unknown to the public. And so when Members looked at the amount, there was such a strong reaction. In this regard we also have our difficulties. As I have just said, although there is an interdepartmental mechanism within the Government and there are experts who make very careful observations — the examples just cited are meant mainly to let Members have a historical viewpoint when looking at things and to know what the established practice and situation are — but in the course of introducing

projects, some major revisions have to be made to the contents of the project in response to the requirements of the users and the public. As a result of this, prices in the estimates are very different from the amount of funding in the application submitted to the Legislative Council. In this regard, we will pay extra attention and also learn from experience, examining how a better job can be done.

MR IP KWOK-HIM (in Cantonese): *President, I can see that in part (2) of the main reply, the overall construction expenditure in the next few years would be maintained at a range of \$160 to \$190 billion annually.*

May I ask the Secretary, given this amount, does Hong Kong have enough and sufficient resources to cope with these works projects of such a large scale? These include technical personnel, machinery and ordinary workers. In the case of the Heung Yuen Wai Boundary Control Point, obviously the problem is that the cost of machinery has risen so that the risk premium also rises. Have the authorities assessed such a situation and is it considered suitable?

SECRETARY FOR DEVELOPMENT (in Cantonese): *President, I thank Mr IP Kwok-him for the question.*

The amount of \$160 to \$190 billion annually as mentioned in the main reply is the total expenditure on public and private construction projects. In respect of public works projects, those on the CWP take up about \$70 billion. Apart from that, there are also certain projects of the MTRCL, the Hospital Authority and other public bodies. The rest are private projects in the private-sector market closely related to the economic conditions and demand. Generally speaking, they are in better synchronization with the economic conditions. We can only try our best to make accurate predictions according to the present circumstances. But there may be changes during the interim.

On public works, we have to observe financial discipline within the Government. And we have made efforts in manpower to cope with the problems mentioned by Mr IP earlier. These efforts will continue. Meanwhile, we will try to introduce competition in the construction market. We hope to bring in more consultancy firms and construction companies, such that prices can become more reasonable due to competition. Besides, we will adopt some

procurement approaches which are relatively new, such that the risk premium in tender exercises can be reduced. Since contractors will consider wages and other risk premium factors when making their bids, so we have changed the procurement approach. We have introduced certain practices which are not of the "double envelope system". We will ask the contractors to put forward innovative ideas and if they score a very low point in innovation suggestions, we will not consider their tender price at all. We hope this can cause improvement to the situation.

We also adopt a new contractual procurement approach and based on the progress of the project and expenditure, the contractor can share its surplus with the Government. If there is a cost overrun and provided that it does not exceed a certain percentage, the Government will bear the financial burden with the contractor together. It is hoped that it will lower the risk premium and hence reduce the overall bidding price. In addition, we will ask the Census and Statistics Department and consultancy firms to carry out a study. As mentioned in the main reply, the aim of the survey is identification of the contractor's tendering considerations such as risks and how proposals are put up. This is hopefully aimed at reducing the risk premium so that there can be mutual benefit and a win-win situation for both sides.

MR TONY TSE (in Cantonese): *President, a steady amount of work will certainly be conducive to the development of the construction industry, for healthy development is very important. The Secretary has just talked about the problems in making accurate predictions of the amount of work and the time of project execution. But as the Government is the largest works projects employer, I hope the Secretary can think of more ways in this respect. On the assessment of the manpower needs of the sector in the future, I can see that it is mentioned in the main reply that the CIC is now undertaking a study on that.*

May I ask what the basis for this study is, and how the work amount is to be calculated in terms of projects? Besides, has consideration been given to the large number of professionals or technicians who do not just serve Hong Kong but also other places including the Mainland, Macao or even the Middle East? Have the authorities made any assessment in this respect with a view to providing sufficient manpower?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr Tony TSE for the question.

About the Member's question on what can be done to make the amount of work steadier so that there can be better development in the industry and that the employment situation can be made more stable, although I have just said that objectively there are certain difficulties, we will do our best to follow up. As for technical personnel, we are undertaking a study now and the findings will be published in the latter half of this year.

About the matters pointed out by Mr TSE just now, we will take them into consideration when carrying out the study. We think that with respect to the number of works projects in future, as Mr TSE has said, the challenge we face in manpower does not come from workers alone but also technical and supervisory personnel in the works projects. There used to be some pressure in these areas but since these talents have a high mobility in the international labour market, the problem is not too acute. Looking into the future and with such a large number of works projects, we need to look into this and find a solution.

PRESIDENT (in Cantonese): We have spent more than 24 minutes on this question. Fifth question.

Assisting Owners and Occupiers of "Three-nil Buildings" in Complying with Fire Safety Directions

5. **DR PRISCILLA LEUNG** (in Cantonese): *President, the Fire Safety (Buildings) Ordinance (the Ordinance) stipulates that the fire safety of composite and domestic buildings constructed on or before 1 March 1987 must be enhanced to better meet the requirements of the day. The Fire Services Department (FSD) and the Buildings Department (BD) issue Fire Safety Directions (Directions) to owners and/or occupiers with regard to fire service installations and fire safety constructions in those buildings, with a view to enhancing the basic fire protection measures in those buildings. Quite a number of owners and residents of old buildings in Mong Kok (including Fa Yuen Street) have relayed to me that they have recently received one after another the Directions issued by the authorities. However, as the buildings in which they live do not have owners' corporations (OCs) or any other residents' organizations and are not managed by*

property management companies (that is, the so-called "three-nil buildings"), and coupled with most of the residents being the indigent elderly, they have the will but lack the ability to co-ordinate the improvement works required for complying with the Directions. Some owners and residents have been fined \$700 per household for failing to comply with the Directions. In this connection, will the Government inform this Council:

- (1) given that as they are unable to form OCs despite the co-ordination efforts of the authorities, the owners of some "three-nil buildings" have all along not complied with the Directions, and they have been fined repeatedly for this, whether the authorities will consider exercising discretion in handling such cases, including suspending the Directions concerned as well as allowing them more time and providing them with appropriate assistance to facilitate their compliance with the Directions; if they will, of the details; if not, the reasons for that;*
- (2) as the authorities have indicated that they will consider accepting alternative proposals made by owners when there are technical difficulties for individual buildings to comply with the Directions, whether such a flexible approach is applicable to "three-nil buildings"; if it is, of the details; if not, the reasons for that; and*
- (3) whether the authorities will consider assisting, through other means, the owners of "three-nil buildings", who have all along been unable to form their OCs, in complying with the Directions, for example, by the authorities co-ordinating the required improvement works and afterwards recovering the advanced payments for such works from the owners concerned; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): President, the Ordinance (Cap. 572) came into operation on 1 July 2007. The Ordinance stipulates that the fire safety of composite and domestic buildings constructed on or before 1 March 1987 should be enhanced to better meet the requirements of today. There are notable differences between the fire safety requirements at the time of the construction of those old buildings and the standards nowadays. For instance, the commercial portions of the composite buildings were not required

by law at that time to install automatic sprinkler systems. Enhancements are therefore necessary.

The FSD and the BD will issue the Directions to owners and/or occupiers with regard to fire service installations and fire safety constructions in those buildings, with a view to enhancing their basic fire protection measures. The BD is the enforcement department for fire safety measures on the planning, design and construction of buildings, while the regulation of fire service installations and equipment falls under the purview of the FSD.

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

- (1) The FSD and the BD normally give building owners one year to comply with the Directions. The departments will, without compromising basic fire safety, adopt a flexible and pragmatic approach in handling individual cases. If the owners need more time to prepare for and carry out the improvement works for reasons that involve the formation of an OC, and so on, the departments will consider their applications for extending the compliance period of the Directions in a reasonable manner in the light of the justifications provided in their applications and/or the scale of works involved. As at end-January 2014, among some 130 000 Directions issued by the two departments, about 25% had been complied with. Of some 98 000 Directions that have not been complied with, about 80% had been given an extension of one to five years, and about 20% had not reached their deadlines.

The enforcement departments are prepared to meet with the owners or the Authorized Persons (APs) whom they have engaged to explain the requirements of fire safety improvement works in the Directions and to assist them in solving potential problems associated with the works. The departments will also refer those buildings without OCs to the respective District Offices (DOs), which will assist them in establishing OCs, so that the co-ordination of improvement works would be carried out more smoothly.

According to our understanding from the Home Affairs Department (HAD), they have strengthened efforts to provide assistance to old

buildings, particularly those known as "three-nil buildings". The HAD launched the Building Management Professional Advisory Service Scheme (Service Scheme) in 2011, under which professional property management companies were commissioned to provide free professional advisory services on building management and safety to owners of 1 200 "three-nil buildings". Those services included household visits as well as assistance in liaising with and organizing owners for the setting up of OCs and in applying for various building maintenance financial assistance and loan schemes to help them commence the building maintenance works. As the Service Scheme has been well received, the HAD will launch a new round of the Service Scheme in April this year to support and assist another 1 200 "three-nil buildings".

For those "three-nil buildings" where OCs are yet to be formed due to various reasons, the HAD has also launched the Resident Liaison Ambassador (RLA) Scheme to recruit owners or residents of those buildings as ambassadors. In addition to lining up the owners and residents to handle daily building management work, the ambassadors also act as the point of contact between the Government and the owners/residents. So far, nearly 900 ambassadors have been recruited from some 500 "three-nil buildings". In the long run, the HAD will continue to promote the establishment of OCs in such buildings through the RLA network.

If owners fail to comply with the Directions within a reasonable period or provide sufficient justifications to support the application for a time extension, the departments do have the responsibility to take enforcement actions under the Ordinance to ensure the fire safety of old buildings. The circumstances of each case, including follow-up actions taken by individual owners on the Directions, will be considered before prosecution action is initiated.

- (2) The enforcement departments are aware that individual buildings might not be able to fully comply with the requirements due to structural or spatial constraints. Under such special circumstances, the departments will, taking into account circumstances of individual cases and the information submitted by APs, deal with some of the requirements in a reasonable and flexible manner or consider

accepting the alternatives put forward by the building owners in relation to the execution of the Directions. For example, if there are spatial constraints in the installation of a hose reel system and/or a water tank, the departments will consider allowing the installation of an improvised hose reel system⁽¹⁾ in the concerned buildings. If owners of "three-nil buildings" and those of other buildings come across the above situations, they may consider providing justifications to the departments concerned for applying for such exemptions or putting forward alternative proposals.

- (3) As mentioned above, the FSD and the BD are prepared to meet with owners or the APs engaged to explain the requirements of the Directions and assist them in solving potential problems associated with the works. The HAD will also continue to implement the aforementioned measures targeting at "three-nil buildings". The BD, the Hong Kong Housing Society and the Urban Renewal Authority have been running financial assistance schemes to assist owners of private buildings to maintain and repair their buildings, including the Building Safety Loan Scheme, Integrated Building Maintenance Assistance Scheme and Building Maintenance Grant Scheme for Elderly Owners. Fire safety improvement works pertaining to the Ordinance have been incorporated into the list of works eligible for subsidies or loans under these schemes.

There is no provision in the Ordinance empowering the enforcement authorities to carry out upgrading works on fire service installations and equipment of the target buildings and then to recover costs from the parties concerned upon completion of works. The aim of carrying out such works is to enhance the fire safety of target buildings to modern standards, but it does not mean that those buildings have imminent or obvious fire hazards. In fact, owners/occupiers of the buildings should deliberate on feasible proposals and work arrangements and reach consensus on implementing such fire safety works, such as locations where the facilities should be installed. It is not appropriate for the enforcement authorities to make unilateral decisions for them. The FSD and the BD will, from time to time, review their flexible and pragmatic measures and the circumstances under which flexible

(1) An improvised hose reel system includes a hose reel water tank with less than 2 000 litre capacity, a hose reel drum installed at a higher position and a hose reel of reduced length.

handling of the requirements can be considered, with a view to assisting those buildings in genuine need to comply with the requirements set out in the Directions without compromising basic fire safety.

DR PRISCILLA LEUNG (in Cantonese): *President, the Secretary still did not answer part (3) of the main question direct. The Ordinance is currently enforced by different departments and some time ago, some owners of buildings pointed out that — This is one of the many letters seeking assistance — as the facilities that they are required to replace are occupied for private use, they therefore sought assistance from the authorities but different departments treated them like "human balls" by kicking them back and forth while urging them to carry out the replacement works as soon as possible.*

My supplementary question to the Secretary is a follow-up on part (3) of the main question. In view of the situation where different departments work separately on their own, do the authorities have any plans to enhance and co-ordinate the work of the departments concerned, such as the BD, the FSD, and so on? If so, what are the details? If not, what are the reasons?

SECRETARY FOR SECURITY (in Cantonese): President, as I said in my reply to the main question just now, the enforcement of the Ordinance consists of two parts, one falls under the purview of the BD whereas the other is under the responsibility of the FSD. To avoid the situation of the owner or occupier receiving Directions from different departments at different times, the inspection work is actually carried out jointly by colleagues from these two departments. Upon completion of inspection, they will submit reports and write to the owner or occupier requiring the latter to carry out certain types of projects or works. Although letters are issued by two departments separately, they will send their respective letters at the same time. When the owner or occupier receives the letters notifying him of the requirements, he can make enquiries with and contact the responsible colleagues of the respective departments, whose names and contact telephone numbers are shown in the letters, in respect of the required works specified in the letters. Certainly, in the process, the owner or occupier may probably think that different departments have different requirements, but I can tell Members here that we will make co-ordination arrangements by all means. As I mentioned in the main reply just now, on receiving cases involving

"three-nil buildings" and knowing that they do not have OCs, we will proactively refer these cases to the DOs for them to make co-ordination and help owners resolve the problems through their various schemes currently in force.

The FSD has always upheld one objective in the enforcement of the Ordinance. When the Government introduced this piece of legislation to the Legislative Council for passage, a consensus was reached during the discussion and that is, the Ordinance will be enforced in a flexible, reasonable and tolerant manner. The entire Ordinance has only one objective, which is to upgrade the fire safety standards. As the upgrading of fire safety standards is most important to residents living in buildings, we have been working to achieve this objective. As for the situation mentioned by Dr LEUNG that in some cases, department A may pass the buck to department B and then department B will pass the buck to department C, I would be glad to follow up these cases if Dr LEUNG can provide us with more detailed information.

DR PRISCILLA LEUNG (in Cantonese): *I only wish to make one point, as many owners of old buildings are now watching the Secretary while he speaks here. With regard to whether efforts can be enhanced to ... if two departments issue their letters simultaneously, the owners may be even more frightened because they have received too many letters, especially if the owners are elderly people ...*

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

DR PRISCILLA LEUNG (in Cantonese): *I would like the Secretary to state clearly whether they will ... As there are two responsible departments, may I ask him whether one of the departments is specifically responsible for co-ordination?*

SECRETARY FOR SECURITY (in Cantonese): President, as it is required in law that two departments are responsible for enforcement and the different work involved in their respective scope of enforcement can only be carried out by the relevant department, the FSD certainly cannot handle the enforcement work within the BD's purview; nor can the BD exercise the powers conferred on the FSD by law. As regards co-ordination, I hope that measures which will provide

more convenience to the residents can be introduced as soon as possible.

MR WONG TING-KWONG (in Cantonese): *President, with regard to the said situation, not only the FSD and the BD are involved. In fact, the Electrical and Mechanical Services Department also has a part to play.*

As evident in some cases, although the DOs have made the utmost effort to help setting up OCs for "three-nil buildings" and organized many meetings over the years, it is a pity that whenever a meeting of the OC was convened, the meeting had to be aborted due to a lack of quorum. As a result, these buildings cannot carry out the fire safety installation works as referred to by Dr LEUNG earlier on as well as other projects relating to building repairs, window inspection, and safety of electrical installations. Worse still, the owners have been summonsed for many times and required to attend court hearings.

However, these law-abiding owners who attended every meeting of the OCs and also attended the court hearing every time they were summonsed are often convicted and fined, whereas those owners who are indifferent to and could not care less about what happened can nevertheless escape the punishment by law. May I ask the Secretary whether these indifferent owners and those law-abiding owners will be given different treatment by the authorities when it comes to prosecution? I understand that we do need to improve these measures, for this is of the utmost importance to building safety ...

PRESIDENT (in Cantonese): Mr WONG, you have already stated your supplementary question. Please let the Secretary answer it.

SECRETARY FOR SECURITY (in Cantonese): President, with regard to Mr WONG's question, I think it may fall outside the scope of the issue to which I am giving a reply here today. It is because this question is about the enforcement work of the FSD in relation to the improvement of fire safety facilities in buildings. But in reply to Mr WONG's supplementary question, I can clearly tell Mr WONG that under the law, when the FSD issues a Direction to the owner requiring the owner to carry out the relevant improvement works, the owner will be given some time to carry out the works and generally speaking, the period will be one year. If the owner fails to complete the relevant improvement

works within one year, the FSD will enquire about the reason. If it is really necessary to start the prosecution procedures, it is, in fact, clearly stated in law that if the person being prosecuted does not have a reasonable excuse — What does "reasonable excuse" mean? Put simply, we can take it to mean whether the owner has taken any action or done his utmost to make improvement, and so on and so forth. As I pointed out clearly earlier on, the FSD will, on the premise of not compromising the enforcement of its statutory duties, negotiate with the relevant owner in a flexible and reasonable manner.

Even if the owner really has not given any response and when the case has reached the prosecution stage, the FSD will not issue summons unilaterally. The current practice is that a report on the entire case will be prepared for submission to the Department of Justice (DoJ). The FSD will initiate prosecution only after the DoJ has finished reading the report and given consent. In my reply to Dr LEUNG's main question earlier, I mentioned some statistics showing that the two departments have issued 130 000 Directions in total. According to the records provided by the FSD, in the years from 2017 ... Sorry, from 2007 to the end of January this year, the total number of prosecutions instituted by the FSD and the BD is only 55, which is a very small number compared to the Directions issued by the two departments. I believe these figures can reflect that the authorities do not institute prosecutions lightly. Of these 55 cases in which prosecution has been instituted, an extension of three years was given in 10 cases, an extension of two years was given in 24 cases and an extension of one year was given in one case, whereas for the remaining 20 cases, no application for extension was made. Therefore, I can say that if owners have difficulties and so long as they have tried their best to meet the requirements, we will provide them with assistance, and when enforcement actions are necessary, we will carefully consider various aspects of the situation before taking actions.

MR IP KWOK-HIM (in Cantonese): *President, as we all know, the Ordinance came into operation in 2007 in the wake of several cases of a big fire in society which caused huge losses of human lives and properties. This Ordinance is actually targeting the "three-nil buildings" because the fire safety facilities in these buildings are grossly unsatisfactory. In fact, we veteran Members all have this painful experience of dealing with "three-nil buildings". These buildings have only a small number of households and worse still, many of the residents are elderly people or people who are less well-off, and we need to have regard to these factors in our consideration. During the scrutiny of the bill, the Secretary*

repeatedly stressed the need to handle these cases in a reasonable and flexible manner. Of course, I, being Chairman of the Bills Committee at that time, also heard the Government say that these cases would be handled flexibly. Now I found that while these cases are handled flexibly, nothing is unresolvable so long as there is money. But the owners of these "three-nil buildings" actually do not have much money to spare. Therefore, may I ask the Secretary how, in the face of these problems, these cases should be handled flexibly? The biggest problem now is the water tank, a problem that we often have to deal with. It is because the installation of a water tank on the rooftop of a building will certainly affect the building structure and once this is factored into the installation, it will definitely be costly. Regarding these cases, have the authorities granted exemption to these buildings from the requirement of installing a water tank, so as to practically help the owners to fully comply with the law while enabling them to afford the costs involved?

SECRETARY FOR SECURITY (in Cantonese): President, Mr IP has raised a relevant and appropriate supplementary question because as also mentioned by Mr IP, he was the Chairman of the relevant Bills Committee. Regarding the water tank problem, I can give a direct answer to it in two parts. For a building with a height below 20 m, if the FSD, after conducting inspection, confirms that the installation of a fire hydrant is impossible, consideration can be given to reducing the size of the water tank under several circumstances which include first, the building itself is less than 20 m in height, which is about six storeys tall; and second, the building has a frontage directly accessible by a fire engine. Consideration can be given to exempting a building from installation of a fire hydrant under these circumstances, and when the installation of a fire hydrant is not required, it will be adequate so long as the water tank can ensure water supply for the hose reel system.

What is the difference? The installation of a fire hydrant and a hose reel system will require a water tank with a 9 000 litre capacity but without a fire hydrant, a water tank with a 2 000 litre capacity is good enough. In other words, the size of the water tank can be reduced substantially. What is the merit of substantially reducing the tank capacity? Its location can be handled a lot easier. I have discussed a case with the FSD before, and the FSD has provided me with photographs showing that at the place between the staircase and the rooftop, a 2 000 litre water tank can already be installed to resolve the problem. Having said that, this is only one of the examples, and it is downright impossible for a

water tank to be installed in some buildings. The FSD has also shown me another case concerning an old, dilapidated building with a slanted tiled rooftop. For these tiled rooftops, the tiles will come off in times of strong wind, not to mention installing a water tank there. Under these circumstances, the FSD will consider accepting other alternatives. According to the information provided to us by the FSD, since the Ordinance came into operation, nine buildings in Hong Kong Island, Kowloon and the New Territories have been granted exemption because given the structural constraints, the installation of the facilities required is considered impossible after exploration of many options. Therefore, these buildings are exempted from the installation of a water tank and a hose reel system on the grounds cited by the owners and the APs engaged by the owners during negotiations, and other alternatives are accepted to replace such facilities. This is what the FSD will do.

PRESIDENT (in Cantonese): We have spent 25 minutes on this question, which is far more than the time limit prescribed in the House Rules. But apart from the Member who asked the main question, only two other Members have had the opportunity to raise a supplementary question. Let me remind public officers that they should be as concise and pertinent as possible in their replies, so that more Members can ask supplementary questions.

Last oral question. Mr Albert HO.

Regulation of Businesses of Licensed Money Lenders

6. **MR ALBERT HO** (in Cantonese): *President, it has been reported that as at March 2013, the authorities issued 1 001 money lender licences and were handling 2 556 licence applications. Regarding the regulation of the businesses of licensed money lenders, will the Government inform this Council:*

- (1) *of the number of complaints against licensed money lenders received by the police and the number of licensed money lenders prosecuted in the past three years;*
- (2) *whether it has considered cancelling the arrangement of the Registrar of Companies serving concurrently as the Registrar of*

Money Lenders (RML); if it has, of the details and implementation timetable; if not, the reasons for that; and

- (3) *given that no institution is now responsible for regulating the businesses of licensed money lenders, and the police will only conduct investigations into their illegal practices, such as charging a lending rate above the statutory ceiling or employing illegal debt collection tactics, whether the authorities have considered putting the businesses of licensed money lenders under the regulation of the Hong Kong Monetary Authority (HKMA), and setting requirements such as maximum loan-to-value ratio, minimum registered capital and capital buffer, and so on, in respect of such businesses; if they have, of the details and implementation timetable; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, under the Money Lenders Ordinance (MLO) (Cap. 163), applications for money lenders licences are subject to approval by the Licensing Court. The Hong Kong Police Force is responsible for enforcement work including investigations of complaints against money lenders, and provides opinions to the Licensing Court on licensing matters. In addition, the RML is responsible for handling administrative matters related to the processing of licence applications and renewals, as well as maintaining a register of money lenders for public inspection.

As at 28 February 2014, 1 143 licensees were on the register of money lenders and 276 applications were under processing, of which 191 were applications for renewal of licences.

After consulting the relevant bureaux, the reply to the three-part question raised by Mr Albert HO is as follows:

- (1) The police do not keep any figures on complaints against licensed money lenders. The number of prosecutions initiated under the MLO was 50 between January 2011 and September 2013.
- (2) Under section 4 of the MLO, the Chief Executive shall appoint a public officer to be the RML to perform administrative functions

under the Ordinance, including processing licence applications and maintaining a register of money lenders. The role of the RML had been performed by the then Registrar General since commencement of the Ordinance. Following dissolution of the Registrar General's Department in 1993, the role has been taken over by the Registrar of Companies. The Government has no intention to change the existing arrangement which has been working well over the years.

- (3) Apart from not being allowed to charge excessive interest rates on loans, licensed money lenders should ensure that their trade practices and the way in which they conduct money-lending transactions are in compliance with the provisions of relevant legislation. In particular, the MLO provides for various matters concerning money-lending transactions, including the form of loan agreements, the way interest rates are expressed, repayment arrangements, advertisements, the duty of money lenders to provide information to borrowers, and so on. These provisions serve to ensure that the terms contained in money-lending advertisements and loan agreements are clear and highly transparent to facilitate borrowers in understanding the loan arrangements. Law-enforcement agencies will take enforcement action against those licensed money lenders who are in breach of the relevant provisions.

Regarding the requirements on property mortgage loans and registered capital referred to in the question, and whether the businesses of licensed money lenders should be put under the regulatory ambit of the HKMA, we must point out that the measures taken by the HKMA to supervise authorized institutions (AIs) under the Banking Ordinance (Cap. 155) are related to management of potential risks to the banking system and maintenance of financial stability. According to the HKMA, some licensed money lenders are clients of AIs subject to its supervision. By December 2013, loans provided by AIs to licensed money lenders totalled around \$19 billion, accounting for less than 1% of the local loans provided by these institutions. Even in the event of default, the potential risks posed to the banking system is limited and will not undermine Hong Kong's financial stability. Moreover, the HKMA has requested AIs to proactively review their policy for providing loans to money lenders with a view to ensuring the effectiveness of its

macro-prudential measures in respect of property mortgage lending business. In conclusion, there is currently no justification from the perspective of maintaining the stability of our banking and financial systems for considering placing the businesses of money lenders under the regulation of the HKMA.

MR ALBERT HO (in Cantonese): *President, I am extremely disappointed, for the Secretary and the relevant Bureaux seem to have no concern and understanding about the problems faced by society at present. The Consumer Council announced a few days ago that there were many complaints against a great number of money lenders, financial companies in particular. These companies induce people to take out loans by an avalanche of advertisements. They even employ a large number of sales to induce elderly people to take out loans. Yet when these elderly people sign the paper, they may be mortgaging their property for loan, the property they and their old mate have spent years to service the mortgage. These elderly people do not realize the severe consequence of such an arrangement. They will only know that they have to pay expensive interest and 20% referral fees, which have already been deducted from the loan, when they make the repayment. If they run into difficulties, the debt collection agencies will knock on their door to demand repayment.*

President, the thrust of my main question is on the system under the MLO, which was put in place 30 years ago, where the Magistrate will examine and approve each application for licence. Yet the police have not kept any figures on complaints received. President, may I ask the Secretary for Financial Services and the Treasury and other Policy Bureaux whether they have considered that many people have fallen victim to the unscrupulous operation of financial companies at present, incurring serious losses, and some have even lost their homes and are forced to sleep on the street or even commit suicide? Does the present reply by the Secretary imply that he will not give regard to this problem and will not request the police to improve its data collection? Does he plan to carry out none of the said tasks and stick to the old rut as long as financial stability is not affected? Will he have peace of mind to continue to be the Secretary?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Member mentioned the issue of violations.

Regulatory measures have been put in place under the existing MLO, requiring money lenders to comply with certain requirements in operation. As I mentioned in my main reply earlier, the Ordinance required money lenders to provide clear information about the loan arrangement and interest rate, and so on. In case of violation, the police will take enforcement action and initiate persecution.

Moreover, other unscrupulous operation practices are subject to the regulation of the Trade Descriptions Ordinance. Hence, channels are available under the Ordinance and the MLO to initiate persecution against various unscrupulous practices in operation and violations.

MR ALBERT HO (in Cantonese): *Part of my supplementary question has not been answered. Does the Secretary have any intention to request the police to collect data on complaints received?*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): At present, the police do not collect data on the number of complaints received, yet we will keep watch on this issue. In the event of any violation, I will pay attention to it and urge the police to step up its effort in promotion.

MR ALBERT HO (in Cantonese): *Will he urge the police to collect data on complaints? Yes or no?*

PRESIDENT (in Cantonese): Secretary, will you request the police to collect the relevant data?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I believe the police will handle different kinds of data in their daily

operation.

MR SIN CHUNG-KAI (in Cantonese): *President, the Secretary's answer is not an answer indeed. He is actually saying that he will not do so. In part (1) of the main reply, he pointed out that the number of prosecutions initiated under the Ordinance was 50 in the three years between 2011 and 2013. I do not know how many companies were involved, and it is not surprising that only a few companies were involved. In terms of proportion, the figure is quite high and the problem is relatively serious. Since the Secretary has not collected the relevant information, it is impossible to confirm how many cases among all cases investigated involve violations, but not to the extent that warrants persecution. Does he have any record or figures in this respect? The Secretary pointed out in part (3) of the main reply that, "These provisions serve to ensure that the terms contained in money-lending advertisements and loan agreements are clear and highly transparent", yet the keeping of statistics was not mentioned. What is the number of complaint cases which does not warrant persecution? Will the Secretary please answer this?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I do not know clearly what the Member's question is. Can he repeat it?

MR SIN CHUNG-KAI (in Cantonese): *My supplementary question is that in the past few years, there were only 50 persecutions, but since the Secretary has not kept the data, I do not know ...*

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

MR SIN CHUNG-KAI (in Cantonese): *... the number of cases investigated by the police. How many cases relating to the MLO were investigated by the police, and how many cases were not followed by persecution? The number of persecutions is only 50 at present.*

PRESIDENT (in Cantonese): Secretary, the Member asked about the number of cases investigated by the police but resulted in no persecution.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Sorry, I do not have such figures.

MR SIN CHUNG-KAI (in Cantonese): *The Secretary for Security is sitting right behind the Secretary for Financial Services and the Treasury, I wonder if he has the figure.*

PRESIDENT (in Cantonese): Mr SIN, please repeat your question.

MR SIN CHUNG-KAI (in Cantonese): *The Secretary for Security is sitting behind the Secretary for Financial Services and the Treasury. I wonder if he has the relevant figure. I ask the Secretary for Security to provide the figure, for the police are responsible for law-enforcement.*

PRESIDENT (in Cantonese): The Secretary for Financial Services and the Treasury is the representative of the Government in answering this question. The Member may propose to the Secretary to check after the meeting whether the relevant figure is available.

MR SIN CHUNG-KAI (in Cantonese): *Secretary, will you help us to ask the Secretary for Security to provide such figure? During the period between January 2011 and September 2013, that is, the two years and nine months mentioned in the main reply, how many cases were investigated and how many did not involve complaints? No, it should be the number of cases investigated but resulted in no prosecution.*

PRESIDENT (in Cantonese): Secretary, will you provide the figure?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I will check after the meeting to see what information can

be provided. (Appendix II)

MR NG LEUNG-SING (in Cantonese): *After hearing such complaints about money lenders, I think the Secretary should consider stepping up the publicity on reverse mortgage, for the arrangement has been available for some time already. It is necessary to step up the publicity on reverse mortgage, for as the Member mentioned earlier, some elderly people may need money. However, if they borrow money from general money lenders, the result will usually be less desirable than taking out a reverse mortgage. In this connection, will the Secretary consider stepping up the publicity on reverse mortgage with a view to reducing the occurrence of the abovementioned cases?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Mr NG for his suggestion. Reverse mortgage is a scheme introduced by the Hong Kong Mortgage Corporation Limited recently. The scheme is successful, for it enables many people in retirement to cash out through mortgages, so that they can enjoy their retirement life.

I thank the Member for the suggestion, and we will continue promoting the scheme to enable more elderly people to obtain cash support.

MR PAUL TSE (in Cantonese): *President, the crux of the problem is that the authorities refuse to step up the regulation. According to part (3) of the main reply, it seems to be attributable to the meagre percentage of the total loan amount provided by money lenders, which will not affect the stability of the financial system. However, this is not the crux of the problem. At issue is that many people in society have suffered and incurred losses now, whereas the authorities have failed to impose proper regulation.*

I would like to explain this point further. Section 11 of Cap. 163 only states that the Court will only consider whether the applicant for a money lenders licence is a suitable candidate. The procedures involved are simpler than those involved in the application for a travel agent licence. Yet factors like the background of the applicants for money lenders licences, whether or not they have undesirable past record and whether or not proper regulation has been put in place are not examined. Why do the authorities not step up regulation and

improve the licensing mechanism despite the many problems found in society? At the same time, under the current licensing mechanism, how many applicants have been rejected on the grounds of unsuitability? Will the Secretary provide the information?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, in my view, the existing licensing criteria are in no sense lax. In brief, the Licensing Court must be satisfied that the applicant is a "fit and proper" person to carry on business as a money lender, the name to be licensed is not misleading, and that the grant of the licence is not contrary to public interest. Moreover, the licence is only valid for one year, which means money lenders have to renew their licences every year, and the Licensing Court will consider the above criteria in granting renewal.

Furthermore, over a period in the past, the Licensing Court had included additional criteria in its consideration of the social condition at the time of granting licences, so that better regulation could be imposed on money lenders. For instance, for the purpose of combating illegal debt collection activities, the Licensing Court had accepted the proposal of the police to include new licensing criteria in approving applicants for money lenders licences. Such criteria include prohibiting money lenders and other debt collectors from causing nuisances in the course of seeking the debtors. These are additional criteria imposed by the Court to tighten licensing in response to the concerns of society.

We consider that adequate protection is provided to debtors under the existing legal framework, and thus the Government has no plans to review the Ordinance.

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

MR PAUL TSE (in Cantonese): *My question for the Secretary just now is: What is the number of applications rejected? Is there any record?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): In the past few years, the Licensing Court rejected four applications

for new licences and renewals.

MR ALBERT HO (in Cantonese): *President, it is extremely strange for the judiciary to grant licences, which is also inconsistent with the principle of the administrative system. How can the approval of applications be left to a judge, yet lacking a comprehensive and clear licensing policy? The policy should be formulated by a Policy Bureau.*

The most important point is that the applicants must be required to comply with certain code of conduct upon the granting of licence, so that their operation practices are subject to regulation. In fact, President, I think the Secretary knows full well that the criteria for compliance by banks and financial companies are different. One discrepancy is in debt collection. The Government allows financial companies operating under money lenders licences to appoint debt collection agents, yet financial companies owned by banks dare not do so, for the public may lodge complaints with the HKMA. The point is that, as Members have raised the concern earlier, the Court will surely examine and approve applications according to certain legal principles, yet the Government should formulate a comprehensive set of rules, so that this type of financial companies are provided with a comprehensive code of practice for their compliance. Should not the Government do so to prevent unscrupulous practices? Will the Secretary give more details about the types of cases involved among the 50 persecutions? After the prosecution, were the licences of those companies cancelled or suspended?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Regarding the figures on prosecution, perhaps I can explain it briefly. In the past three years, the number of cases involving money lending without a licence or not in compliance with the licensing criteria was one, the number of cases involving excessive interest rate was 12 and the number of cases violating requirements on advertising was five. As for the remaining cases, different issues were involved, and the numbers were 12, nine and 11 respectively, which add to a total of 32. This is a rough distribution of the prosecution cases. As I mentioned in the main reply, requirements and regulation have been imposed on the conduct and transparency of money lenders, lest the Licensing Court will not approve their licence renewal.

MR ALBERT HO (in Cantonese): *The Secretary has not answered my question. If the money lender is punished, will his licence be suspended or cancelled, and for his future application, will new conditions be imposed or will his application for renewal be rejected?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I do not have those figures. However, I trust that the Licensing Court will definitely consider factors in all aspects in determining whether renewal should be granted to a licence holder.

MR NG LEUNG-SING (in Cantonese): *In part (3) of the main reply, it is mentioned that, "Law-enforcement agencies will take enforcement action against those licensed money lenders who are in breach of the relevant provisions". May I ask about the number of cases where enforcement actions were taken in response to complaints received? Moreover, will enforcement action by law-enforcement agencies be taken through other channels?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I did not catch clearly which part of ...

MR NG LEUNG-SING (in Cantonese): *I will repeat it. It is the last sentence of the first paragraph of part (3), which states, "Law-enforcement agencies will take enforcement action against those licensed money lenders who are in breach of the relevant provisions". May I ask, apart from the channel of complaint, what other channels will trigger the authorities to take enforcement actions?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): It is about part (3). I see it now. Regarding the initiation of prosecution upon the receipt of complaints, I believe that in general ...

PRESIDENT (in Cantonese): The Member asked, apart from the channel of complaint, do law-enforcement agencies have other channels to identify such

illegal conduct so as to take enforcement action.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): To my understanding, prosecution may be initiated upon the receipt of complains, and this is the general practice. Perhaps I will check after the meeting to see if any information can be provided. (Appendix III)

MR PAUL TSE (in Cantonese): *President, as mentioned by Mr Albert HO earlier, the mechanism for the Court to grant licence is ... Members know that the Court will not conduct investigations, for it will passively listen to the information provided by the police or the RML which is only responsible for paper work. It is totally inadequate for the Court to understand the overall operation and the past record of the applicants. According to my understanding, some criminal families managed to obtain new licences continuously. Debtors are suffering from frequent nuisances, and many elderly people and even persons with intellectual disabilities have suffered losses because of the mechanism. Do the authorities really want to allow the continual existence of such a licensing mechanism with no consideration of making improvement?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, regarding the unlawful conduct of certain debt collectors, society has had extensive discussions. Since these discussions and incidents have aroused the concern of society, the authorities have been stepping up their efforts against such conduct through the licensing conditions and enforcement action of the police. I believe, with additional publicity, more people will be encouraged to lodge complaints against the malpractices of money-lending companies, which enable us to initiate prosecutions. Hence, illegal practices can be addressed effectively under the existing framework.

PRESIDENT (in Cantonese): We have spent more than 23 minutes on this question. Oral questions end here.

(Mr Albert HO stood up)

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

MR ALBERT HO (in Cantonese): *I request a follow-up. The Secretary has not answered my second follow-up question. Will he give a written reply stating the influence on the Court's examination and approval of licence applications by applicants who have records of past conviction?*

PRESIDENT (in Cantonese): Secretary, will you provide a reply in writing after the meeting?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I will check if relevant information is available and provide supplementary information in writing after the meeting. (Appendix IV)

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Meal Breaks for Ambulancemen

7. **DR LEUNG KA-LAU** (in Chinese): *President, under the existing arrangements of the Fire Services Department (FSD), ambulancemen work 12 hours per shift. On each shift, ambulancemen may take turns to have meals for 30 minutes within a designated meal break of two to three hours (designated break). If an ambulanceman cannot have a continuous meal break of 30 minutes due to attending service calls during the designated break, he/she may be compensated with another meal break of 30 minutes afterwards. The FSD has advised that about 90% of day shift ambulancemen can have a continuous meal break of 30 minutes during the designated break. However, the Hong Kong Fire Services Department Ambulancemen's Union has earlier relayed to me that this figure does not reflect the actual situation, which is that the meal breaks of ambulancemen are often interrupted by service calls. In this connection, will the Government inform this Council:*

(1) *of a breakdown of the following statistics on ambulance day and*

<i>Division under the Ambulance Command</i>	<i>(i)</i>	<i>(ii)</i>	<i>(iii)</i>	<i>(iv)</i>	<i>(v)</i>	<i>(vi)</i>	<i>(vii)</i>	<i>(viii)</i>	<i>(ix)</i>	<i>(x)</i>
<i>New Territories South Division</i>										
<i>New Territories North Division</i>										
<i>Overall</i>										

- (2) *whether it will continuously improve the meal arrangements for ambulancemen to ensure that they can have a continuous meal break of one hour during the designated break when no major incident occurs; if it will, of the details; if not, the reasons for that; and*
- (3) *whether it has assessed the impact of having meals in a hasty manner and at irregular hours or even skipping meals on the occupational safety and health of ambulancemen; if it has, of the outcome; if not, the reasons for that?*

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

- (1) As in the cases of many other disciplined services staff, the meal breaks of front-line ambulancemen of the FSD may be interrupted because of the need to discharge emergency duties. In ensuring the provision of emergency ambulance services to the public at all times, the department also has to make reasonable meal break arrangements for its front-line staff. To this end, the FSD has been taking measures to strike a balance between the provision of emergency ambulance services and the safeguarding of the welfare of ambulancemen as far as practicable.

In view of the fact that the meal breaks of front-line ambulancemen may be interrupted due to the need to discharge emergency duties, the FSD has made flexible meal break arrangements for them, taking into account the emergency nature of ambulance service. In gist, ambulancemen may take turns to have meals during a designated

meal break period⁽¹⁾. If they are called out during the designated period before they have taken a continuous 30-minute meal break, they may be compensated with another 30-minute meal break within that period. However, if no other ambulances are available for dispatch at that time, they still have to stop their meals to respond to emergency calls. In the event that ambulancemen are unable to take a continuous 30-minute meal break during the designated period, they may take a 30-minute compensatory meal break afterwards, during which they will be free from attending ambulance calls. To ensure the provision of service would not be affected, the FSD has set quota for compensatory meal breaks for some periods⁽²⁾, but there is no quota set for other periods of time.

Information relating to meal breaks of day-shift and night-shift ambulancemen in 2013 is at Annex.

- (2) The FSD has been paying close attention to the meal break arrangements for front-line ambulancemen, and has been discussing the matters with the staff side. The management has formulated and implemented various improvement measures on the premise that the provision of emergency ambulance services to the public should not be affected. For instance, the starting time of the meal break designated for early day-shift ambulancemen has been advanced to 11 am, the Fire Service Mobilization Centre accords a lower dispatch priority to ambulancemen not having taken their meal so as to facilitate them to return to the ambulance depot for meal, and ambulancemen who are unable to take a meal break during the designated period are eligible for a 30-minute off-call compensatory meal break afterwards, and so on.

The FSD will continue to maintain dialogue with the staff side on how to achieve a more effective deployment of manpower and further enhance the meal break arrangements, with a view to

- (1) In general, ambulancemen are on either day shift (8.30 am to 8.30 pm) or night shift (8.30 pm to 8.30 am the next day). The designated meal break periods for day-shift and night-shift ambulancemen are 11.30 am to 1.30 pm and 12 am to 3 am respectively.
- (2) The quota system for compensatory meal breaks each day is applicable only from 1 pm to 2 pm for day-shift ambulances and from 3 am to 4.30 am for night-shift ambulancemen. The quota system is not applicable to other periods of time.

providing reasonable meal break arrangements for front-line staff while ensuring the efficient provision of emergency ambulance services to the public.

- (3) The FSD has been attaching great importance to the occupational safety and health of its staff. When drawing up work arrangements, the department will assess the impact on staff safety and health and put in place corresponding measures to minimize the risks posed to the staff when necessary. For example, ambulance equipment such as automatic chest compressors and patient sliding boards, and so on, have been introduced for use by ambulancemen to reduce their chances of sustaining injuries at work. In light of the issue of meal breaks for ambulancemen, the department has also formulated the prevailing flexible meal break arrangements after consulting the staff side. The FSD is aware that the staff side still has demand and comments on the meal break arrangements. Therefore, the department will continue to explore the scope for enhancing the meal break arrangements and take improvement measures as appropriate.

Annex

Meal breaks of day-shift and night-shift ambulancemen in 2013

(1) Information on meal breaks of day-shift ambulancemen

	(i) Average number of ambulances on-call per shift per day (on a duty basis)	(ii) Total number of ambulance shifts in the year (on a duty basis)	(iii) Number of ambulance calls in the year (including emergency calls and hospital transfer calls)	(iv) Number of emergency ambulance calls in the year	(v) Average number of ambulance calls per ambulance per shift ⁽³⁾	(vi) Average number of emergency ambulance calls per ambulance per shift ⁽⁴⁾	(vii) Percentage of ambulancemen having a continuous 30-minute meal break during the designated period ⁽⁵⁾	(viii) Percentage of ambulancemen having compensatory meal break after the designated period ⁽⁶⁾	(ix) Daily quota for compensatory meal break during 1 pm to 2 pm (Number of ambulances)	(x) Average number of ambulances using compensatory meal break during 1 pm to 2 pm per day
Hong Kong Division	43	15 615	84 298	76 455	5.4	4.9	82.0%	12.7%	4	3.1
Kowloon East Division	44	15 947	95 486	91 929	6.0	5.8	78.3%	15.6%	4	3.5
Kowloon West Division	35	12 953	85 776	78 511	6.6	6.1	85.2%	6.5%	3	1.4
New Territories South Division	51	18 725	89 921	84 245	4.8	4.5	88.0%	7.9%	4	2.2

Operational division under the Ambulance Command	(i) Average number of ambulances on-call per shift per day (on a duty basis)	(ii) Total number of ambulance shifts in the year (on a duty basis)	(iii) Number of ambulance calls in the year (including emergency calls and hospital transfer calls)	(iv) Number of emergency ambulance calls in the year	(v) Average number of ambulance calls per shift ⁽³⁾	(vi) Average number of emergency ambulance calls per ambulance per shift ⁽⁴⁾	(vii) Percentage of ambulancemen having a continuous 30-minute meal break during the designated period ⁽⁵⁾	(viii) Percentage of ambulancemen having compensatory meal break after the designated period ⁽⁶⁾	(ix) Daily quota for compensatory meal break during 1 pm to 2 pm (Number of ambulances)	(x) Average number of ambulances using compensatory meal break during 1 pm to 2 pm per day
New Territories North Division	61	22 172	112 001	100 851	5.1	4.6	89.9%	5.8%	4	2.5
Overall	234	85 412	467 482	431 991	5.5	5.1	85.1%	9.5%	19	12.7

(2) Information on meal breaks of night-shift ambulancemen

Operational division under the Ambulance Command	(i) Average number of ambulances on-call per shift per day (on a duty basis)	(ii) Total number of ambulance shifts in the year (on a duty basis)	(iii) Number of ambulance calls in the year (including emergency calls and hospital transfer calls)	(iv) Number of emergency ambulance calls in the year	(v) Average number of ambulance calls per ambulance per shift ⁽³⁾	(vi) Average number of emergency ambulance calls per ambulance per shift ⁽⁴⁾	(vii) Percentage of ambulancemen having a continuous 30-minute meal break during the designated period ⁽⁵⁾	(viii) Percentage of ambulancemen having compensatory meal break after the designated period ⁽⁶⁾	(ix) Daily quota for compensatory meal break during 3 am to 4.30 am (Number of ambulances)	(x) Average number of ambulances using compensatory meal break during 3 am to 4.30 am per day
Hong Kong Division	21	7 826	43 216	40 658	5.5	5.2	96.0%	1.2%	1	0.2
Kowloon East Division	21	7 467	51 602	51 369	6.9	6.9	93.1%	2.6%	1	0.5
Kowloon West Division	16	5 861	45 354	44 868	7.7	7.7	95.3%	0.9%	1	0.2
New Territories South Division	27	9 836	49 038	48 264	5.0	4.9	95.4%	2.3%	1	0.6
New Territories North Division	29	10 568	62 454	58 274	5.9	5.5	96.5%	0.8%	1	0.2
Overall	114	41 558	251 664	243 433	6.1	5.9	95.4%	1.5%	5	1.7

Notes:

- (3) Derived by dividing (iii) Number of ambulance calls in the year by (ii) Total number of ambulance duty shifts in the year.
- (4) Derived by dividing (iv) Number of emergency ambulance calls in the year by (ii) Total number of ambulance duty shifts in the year.
- (5) The FSD cannot break down the respective figures of "ambulancemen who had a continuous 30-minute for their first meal" and "ambulancemen who had their first meal interrupted but subsequently had a continuous 30-minute meal break".
- (6) The FSD advises that although some ambulancemen could not have a continuous 30-minute meal break, they chose not to seek compensatory meal break voluntarily.

Rehabus Service for People with Impaired Mobility

8. **MR CHAN HAN-PAN** (in Chinese): *President, the Rehabus operated by the Hong Kong Society for Rehabilitation (HKSR) provides point-to-point transport service for people with impaired mobility. Recently, some members of the public have complained to me that their bookings for Rehabus service to transport their elderly family members with chronic illnesses to and from their residences and homes for the aged had been rejected repeatedly, which caused much inconvenience to them. In this connection, will the Government inform this Council:*

- (1) *whether it knows the respective numbers of telephone bookings for Rehabus service which were received and rejected by the HKSR in each month of the past five years;*
- (2) *whether it knows if those people who are unsuccessful in booking Rehabus service will be given priority when they book the service the next time; if they have priority, of the details; if not, the reasons for that;*
- (3) *whether it knows the number of complaints about booking for Rehabus service received by the HKSR in each month of the past five years; whether the HKSR has followed up those complaints; if it has, of the details; if not, the reasons for that; and*
- (4) *whether it has monitored how the HKSR will improve the situation of people with impaired mobility having difficulties in booking Rehabus service; whether the Government plans to provide additional funding for the HKSR to procure more buses with a view to improving Rehabus service; if it does, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr CHAN Han-pan's question is as follows:

- (1) The Labour and Welfare Bureau provides subvention to the HKSR for operating the Rehabus service to provide point-to-point special transport services for those persons with disabilities who have difficulties in using general public transport in order to facilitate

them to go to work and school, receive rehabilitation training, participate in other social activities, and attend medical appointments, and so on.

The monthly average number of Dial-a-Ride (DAR) applications (that is, telephone bookings) of Rehabus service received and rejected by the HKSR in the past five years is tabulated below:

<i>Year</i>	2009	2010	2011	2012	2013
Monthly average number of DAR applications received	10 197	10 271	10 569	9 910	9 077
Monthly average number of DAR applications rejected	925	1 146	1 403	1 259	1 136

- (2) Under the prevailing mechanism of the Rehabus service, DAR service is provided on a "first-come-first-served basis" and users are required to make prior booking. The HKSR will keep records of the unsuccessful DAR bookings. Should users of successful bookings subsequently cancel their bookings for personal reasons (such cases amount to 17% to 20% of the total number of DAR bookings on average), the staff of the HKSR will notify the users of unsuccessful DAR bookings as soon as possible and arrange transport service for them with a view to better utilizing the Rehabus resources and providing services to more persons with disabilities.
- (3) The monthly average number of complaints received on the Rehabus service in the past five years, including those arising from unsuccessful DAR bookings, is tabulated below:

<i>Year</i>	2009	2010	2011	2012	2013
Monthly average number of complaints received	3.08	1.42	1.92	3	1.83

After receiving complaints or comments regarding unsuccessful DAR bookings of the Rehabus service, the HKSR will approach the complainants to ascertain their service needs and explore other viable options, including sharing the service with other users or offering alternative slots for the service.

Furthermore, the HKSR holds Rehabus Users Liaison Group meetings regularly to collect views from service users and maintain close contact with various organizations of persons with disabilities, parents' groups of children with disabilities or individual users to collect their views on Rehabus service in order to enhance service standards and efficiency.

- (4) The Transport Department (TD) which is responsible for overseeing the operation of Rehabus service has been supervising the operation and service standards of Rehabus through examination of the monthly operation and statistical reports submitted by the HKSR and discussion with the management of the HKSR and persons with disabilities in the regular Rehabus Management Committee meetings.

The Administration is fully aware of the keen demand from persons with disabilities for Rehabus service. Hence, we will review the service needs every year and apply for additional funding for procuring new rehabuses where necessary.

Since 2007-2008, the Administration has replaced 64 rehabuses with higher vehicle age and procured 40 additional new rehabuses, thereby increasing the fleet to 135, representing an increase of 42%.

To further enhance the Rehabus service, the Administration will allocate funding of \$13.2 million to the HKSR in 2014-2015 for procuring six new rehabuses and replacing seven rehabuses of higher vehicle age. Three out of the six new rehabuses will be used for providing Scheduled Route (SR) service while the remaining three will be deployed for DAR service. Those three new rehabuses for providing SR service will also be deployed for DAR service during non-peak hours. The new rehabuses are expected to be in full operation in early 2015. If the demand for DAR service remains at the present level, the additional rehabuses will be able to reduce the number of unsuccessful bookings by about 35%. Furthermore, the Administration will allocate an additional recurrent provision of \$4.2 million to the HKSR for meeting the recurrent cost of the six new rehabuses and employing additional drivers and management

staff with a view to further enhancing the service and management of Rehabus.

The TD will continue to review from time to time the fleet size, routes and mode of service of Rehabus with a view to achieving sustainable improvement. Furthermore, the TD will continue to maintain close collaboration with the public transport operators to improve the accessibility of transport facilities to facilitate more convenient use of the public transport services by persons with disabilities.

Impacts of Mainland Visitors on Daily Lives of Hong Kong Residents

9. **MR YIU SI-WING** (in Chinese): *President, according to the Assessment Report on Hong Kong's Capacity to Receive Tourists (Assessment Report) released by the Commerce and Economic Development Bureau in December last year, shopping accounted for 76% of the spending of Individual Visit Scheme visitors in 2012. Some members of the public have pointed out that, in the districts along the MTR East Rail Line, quite a number of shops serving local residents have been replaced by shops targeting at Mainland visitors, thus affecting the daily lives of local residents. The conflicts between Hong Kong and Mainland residents are deepening, which has resulted in the recent harassment of Mainland visitors by some local residents in the vicinity of Canton Road, Tsim Sha Tsui, thus tarnishing the image of Hong Kong as a civilized metropolis. In this connection, will the Government inform this Council:*

- (1) *whether it has conducted any assessment to identify the major shopping districts frequented by those Mainland visitors coming to Hong Kong to buy daily necessities or carry out parallel trading activities; if it has, of the details; if not, the reasons for that;*
- (2) *whether it has assessed the positive and negative impacts on the economy, employment situation and people's livelihood of the districts mentioned in part (1) brought about by Mainlanders visiting Hong Kong for shopping; if it has, of the details; if not, the reasons for that; and*

- (3) *whether it has compiled statistics on the current numbers of Mainland visitors and Hong Kong residents engaged in parallel trading activities; whether it has formulated long-term measures to divert Mainland visitors to shop in more districts and mitigate the impacts of parallel trading activities on the daily lives of Hong Kong residents; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, in response to the public concern about the impact of the continuous growth in visitor arrivals on the livelihood of the community, the HKSAR Government has comprehensively assessed Hong Kong's capacity to receive tourists. The areas taken into account include the handling capacity of control points, capacity of tourism attractions, receiving capacity of hotels, carrying capacity of public transport network, impact on the livelihood of the community, and economic impact, and so on. The Assessment Report was completed at the end of last year.

The HKSAR Government understands the situation in individual popular tourist areas and has collectively reflected it in the Assessment Report. We will strengthen promotion of attractions in different districts in Hong Kong so as to offer more choices to visitors and to help alleviate congestion at traditionally popular areas.

Apart from promoting major tourist attractions to visitors, the Tourism Commission, in collaboration with the Hong Kong Tourism Board (HKTB), also encourages visitors to explore, visit and spend in different districts, so as to broaden the overall economic benefits brought about by the tourism industry to Hong Kong. In recent years, the HKTB has made use of different channels, including the Internet, social media, smartphone applications with augmented reality technology, pamphlets, and so on, to promote a number of themed routes bundling various attractions in different districts. Examples include "Travel Through Time" of Central and Sheung Wan, "Evolution of a Fishing Village" of Shau Kei Wan, "A Popular Temple and a City Transformed" of Wong Tai Sin and Kowloon City, Yuen Long Ping Shan Heritage Trail, Fanling Lung Yeuk Tau Heritage Trail, and so on.

To better utilize the tourism resources of each district and to encourage visitors to gain an in-depth and comprehensive understanding of the specialties

and local living culture of various districts, the HKTB will strengthen the promotion of attractions in different districts in 2014-2015, including setting up a dedicated webpage in a progressive manner to showcase various tourism offerings in the 18 districts. The webpage will feature unique historical attractions and buildings, living culture, dining delights, themed shopping streets and specialty markets, and so on, so as to offer more choices to visitors.

The HKTB will also continue to encourage the travel trade to develop new and attractive themed tours taking visitors to explore and spend at different districts through the New Tour Product Development Scheme (the Scheme). As at the end of 2013, the Scheme has subsidized 12 themed tours, including the "Sham Shui Po Foodie Tour" which takes visitors on a local culinary journey, the "Six Senses Heritage Experience" which features a cycling tour in Yuen Long and a big bowl feast in the walled village. In 2014-2015, the HKTB will continue to run the Scheme and encourage the travel trade to unleash their creativity and utilize the tourism resources of different districts.

We consider that the suggestion of developing a shopping centre at the border area is worth considering. If the proposal could be materialized, it might help divert visitors in the short term and provide job opportunities to residents of the existing and planned new towns in the New Territories in the long run. In fact, we have recently received a proposal on the development of a shopping centre at the Lok Ma Chau border area. Since the majority of the area involved in the proposal is private land, it would probably involve a prolonged period of time and a substantial amount of public funds should the Government take forward the proposed development by way of resumption of land. We believe that it will be more efficient if the land owners could co-ordinate with other market stakeholders in pursuing the future development of the area concerned having regard to the commercial potential of the area. We will be glad to co-ordinate with the government departments concerned to provide necessary information and assistance to the project proponent.

The HKSAR Government does not maintain statistics on the number of Mainland and Hong Kong parallel traders. Nevertheless, the Immigration Department (ImmD) has established a watch list of suspected parallel traders and will conduct immigration examination of them and, if their purposes of visits are in doubt, consider refusing their entry and repatriating them to the Mainland immediately. As at end February 2014, the ImmD has included information of

more than 8 700 suspected parallel traders in the watch list and refused entry of some 14 200 persons.

The HKSAR Government is very concerned about the nuisance of parallel trading activities caused to the daily lives of residents. Since September 2012, relevant law-enforcement agencies have implemented a series of measures to improve order at train stations and boundary control points, as well as to protect the daily lives of our community. The HKSAR Government will continue to take targeted measures, including intelligence collection and exchange, joint operations, immigration control, and so on, as well as enhancing co-operation with relevant Mainland authorities to combat parallel trading activities.

Employment of Non-civil Service Contract Staff by Security Bureau

10. **MRS REGINA IP** (in Chinese): *President, some non-civil service contract (NCSC) staff employed by the Security Bureau have relayed to me that the Security Bureau has been renewing their employment yearly on one-year contracts for a period as long as nine years. Notwithstanding that their job duties include handling of sensitive information as well as the provision of engineering and technology related support, which are similar to those of civil servants of comparable ranks, their remunerations are less than the starting salaries of those civil servants by one third to 50%, resulting in low morale among them and a brain drain as well as a prolonged manpower shortage of Security Bureau. In this connection, will the Government inform this Council:*

- (1) *of the number of NCSC staff members currently employed by the Security Bureau; among them, the number of staff members who have been employed for five consecutive years or more, with a breakdown by job position;*
- (2) *whether the Security Bureau has specific plans to assist those NCSC staff who have relatively long service years and whose positions are related to long-term service needs to be appointed as civil servants; and*
- (3) *of the specific solutions of the Security Bureau to resolve the aforesaid problems relayed by NCSC staff, including different pay for the same work, brain drain and prolonged manpower shortage?*

SECRETARY FOR SECURITY (in Chinese): President,

- (1) At present there are 17 NCSC staff serving in the Security Bureau. Among them, four have been employed for five consecutive years or more. They include two Contract Technical Officers, one Contract Centre-in-charge and one Contract Programme Officer, whose length of service is less than seven years at their respective positions.
- (2) Civil service and NCSC appointments are two distinct types of employment. Their purposes and circumstances of employment are entirely different. Direct comparison between them is not appropriate as their terms of employment and pay adjustment mechanisms are not the same. As to the proposal of appointing NCSC staff as civil servants, it is the Government's established policy to select the most suitable persons for civil service vacancies through an open, fair and competitive recruitment process. As the circumstances and nature of the employment of NCSC staff are different from those of civil servants and the entry requirements as well as selection process for NCSC positions may differ from those of civil service posts, it is not appropriate to accord priority to employing NCSC staff as civil servants. Nevertheless, NCSC staff who are interested in civil service posts may, in accordance with the Government's established policy, apply through open recruitment exercises.
- (3) NCSC staff are employed by the Security Bureau to promptly respond to service needs which are time-limited, or attend to tasks where the mode of service delivery is to be reviewed or likely to be changed. As far as certain service needs are concerned, there are no comparable civil service ranks performing the required tasks. In determining the terms and conditions (including entry pay and pay upon contract renewal) for the employment of NCSC staff, the Security Bureau follows the guidelines issued by the Civil Service Bureau, that the terms and conditions should be no less favourable than those provided for under the Employment Ordinance (Cap. 57) and no more favourable than those applicable to civil servants in comparable civil service ranks or with comparable levels of responsibilities where they exist. Furthermore, a host of factors such as the employment market's prevailing condition, recruitment

results and the cost of living will be taken into account and gratuities will be offered to ensure that the pay is set at a rate that remains competitive with the market level and that the Security Bureau is in a position to recruit or retain suitable NCSC staff. The Security Bureau also regularly reviews the pay of NCSC staff and make adjustments accordingly. Upon expiry of contracts or departure of NCSC staff, the Security Bureau will prudently review the continued needs of the tasks or services and decide whether to proceed with contract renewal or recruitment in the light of the circumstances.

The Security Bureau is reviewing the service need of the relevant tasks. As there may be changes to the contract positions of Contract Centre-in-charge and Contract Programme Officer mentioned in part (1) above, creating civil service posts for such services at this juncture may not be appropriate. The major duty of the Contract Technical Officers mentioned in part (1) above is to provide basic technical support services without involving the handling of sensitive information. As the contract positions only involve basic technical work, for which there is an abundant supply of employees in the market and as newly-recruited staff can pick up the work quickly, there is no question of prolonged manpower wastage or shortage.

Standards of School Premises and Learning Environment of Public-sector Schools

11. **MR IP KIN-YUEN** (in Chinese): *President, regarding the standards of the school premises and learning environment of the public-sector primary and secondary schools in Hong Kong, will the Government inform this Council of:*

- (1) *the respective standards of the school premises of public-sector primary and secondary schools in different periods (including the requirements on gross floor area, equipment, number of classrooms and space per student), the number of premises built in each period, as well as the number of premises which have been decommissioned and the reasons therefor;*

- (2) *the respective current numbers of public-sector primary and secondary schools in Hong Kong with school premises not meeting the latest standards for school premises; and set out the (i) names, (ii) types (government or aided), (iii) districts, (iv) addresses, (v) gross floor areas, and (vi) causes of not meeting the standards, of such schools by the year in which the construction of the school premises commenced, and use tables of the same format as the table below to set out the respective information of primary and secondary schools;*

Primary schools/Secondary schools

<i>Year in which the construction commenced</i>	<i>(i)</i>	<i>(ii)</i>	<i>(iii)</i>	<i>(iv)</i>	<i>(v)</i>	<i>(vi)</i>

- (3) *the measures in place to improve the learning environment of the schools mentioned in part (2), including whether priority will be accorded to redeveloping those school premises which are obsolete or grossly substandard, or whether the schools concerned will be reprovisioned;*
- (4) *the procedure, assessment criteria and scoring scheme adopted by the School Allocation Committee under the Education Bureau (the Committee) for vetting and approving applications for school sites/premises, as well as how the Committee handles those school premises which are obsolete or grossly substandard; and*
- (5) *the respective numbers of applications for school sites/premises which were (i) received, (ii) approved and (iii) considered but not approved by the Committee in the past five years, as well as (iv) the reasons for granting approval to the successful cases and details of such approvals, setting out such information by school type and school sponsoring body?*

SECRETARY FOR EDUCATION (in Chinese): President, regarding the size and learning environment of public-sector primary and secondary schools, our response to Mr IP is as follows:

- (1) Standards of public-sector school premises in Hong Kong have been changing in response to, among others, developments in classroom learning, extra-curricular activities as well as guidance and counselling work. Take public-sector primary schools as an example, they have evolved from the standard 24-classroom premises (with three special rooms) in the 1980s to the current scales of 18, 24, 30 or 36-classroom, equipped correspondingly with 10 to 14 special rooms for teaching and learning purposes. The prevailing reference site area is around 4 000 sq m to 7 000 sq m. As for public sector secondary schools, they have evolved from the standard 24-classroom premises (with 12 special rooms) in the 1980s to the current 30-classroom premises, with 21 special rooms for teaching and learning purposes, and a reference site area of around 7 000 sq m. At present, school premises also have to meet the planning target of providing 2 sq m of open space per student. As at March 2014, 228 public-sector schools were built according to the prevailing standards.

In respect of schools which ceased operation due to various reasons, the Education Bureau has an established mechanism for handling the vacant school premises. We will consider if the size, location and physical conditions of the premises would render it suitable for re-allocation for school uses (including primary schools, secondary schools, special schools and international schools) or other educational uses. In view of the various requests made by members of the community for early identification and disposal of vacant school premises to meet educational and other community needs, we have strengthened our existing mechanism by enhancing our liaison with various Policy Bureaux and departments concerned so as to facilitate early planning on the long term use of the vacant/to-be-vacated school premises, thus enabling early deployment of the premises upon cessation of operation of the schools concerned. Regarding the vacant school premises which have been earmarked for long-term use but would be available for interim short-term use,

for the purpose of proper use of resources, the Education Bureau will follow the existing practice to regularly inform relevant government departments and invite them to consider the premises for short-term uses. For those premises that are not suitable for further school or other educational uses, we would inform the Planning Department and return them to relevant departments (such as the Lands Department) for their consideration on alternative uses in accordance with the prevailing established arrangement.

(2) and (3)

School premises built in different periods follow the standards at the time of construction while existing school premises in operation are required to comply with prevailing statutory requirements. Standards are set for various facilities of school premises and they may have been updated for many times over the years. Furthermore, the Education Bureau would also improve facilities of school premises from time to time through various channels. The Education Bureau does not keep detailed records on compliance of each facility of some 1 000 schools with the prevailing standards once they were updated. The Education Bureau strives to upgrade the facilities of school premises according to their needs, so as to improve the learning environment. Subject to the consideration of various factors (including optimal use of public resources and technical feasibility), schools built according to the past planning standards would be upgraded and provided with adequate facilities through various means so as to meet the changing needs in teaching and learning:

- (i) School Improvement Programme (SIP) — Starting from 1994, the Education Bureau has provided 743 public-sector schools built according to the past planning standards with additional space and facilities through the SIP. Implemented in five phases, the Final Phase of SIP was completed in 2006. The scope of SIP varies according to the schools' visions and missions, characteristics, the facilities in place and site condition. Phases 1 to 3 of SIP focused at upgrading the schools' facilities for teaching, learning and administrative

needs. Phase 4 and the Final Phase of SIP aimed to upgrade schools' facilities to the prevailing standards where technically feasible. Only a small number of schools were unable to benefit from the SIP because the proposed works was neither feasible nor cost-effective.

- (ii) **Minor Improvement Works** — Apart from the SIP, the Education Bureau has also improved the facilities of schools in need through minor improvement works, including addition or conversion of classrooms and special rooms. For examples, 46 special schools are being provided with additional classrooms and special rooms in response to the implementation of the New Senior Secondary Academic Structure and the extension of years of study. Six rural schools in North and Yuen Long Districts are also being provided with the same.
 - (iii) **Redevelopment and Reprovisioning Programme** — As for those schools that cannot or can only marginally benefit from the abovementioned works due to site condition or technical constraints, we will, premised on optimizing the use of land resources and existing school premises and satisfying the relevant policy objectives, reprovision these public-sector schools to new premises meeting the prevailing standards, or improve the school facilities through *in situ* redevelopment. In prioritizing redevelopment and reprovisioning programme, parameters considered include the quality of education delivered and the physical condition of the school's existing premises such as age, site area, and whether it has benefited from the SIP.
- (4) According to the established mechanism, once a school site/premises is identified to be suitable for reprovisioning of existing primary/secondary schools, the Education Bureau will invite eligible school sponsoring bodies (SSBs) in the territory to apply for the relevant school sites/premises through the School Allocation Exercises (SAE). Applicants are required to submit application forms and other documents as needed.

Allocation of school premises is generally conducted on a competitive basis amongst the SSBs. In assessing the applications for reprovisioning of schools, quality of education is the prime consideration of the School Allocation Committee (the Committee) comprising both official and non-official members. Other factors to be considered include the operation track record of the SSB, the school plan after relocation and the physical condition of the school's existing premises, and so on. In general, we consider that schools with a site area of less than 3 000 sq m and premises over 30 years of age without having benefited or having only marginally benefited from the SIP warrant serious consideration. Yet, these are not the pre-requisites for submission of applications since each case will be assessed on its own merits. In addition, the location of the applicant school (that is, whether the existing school premises is located in the same district as that of the school premises to be allocated) will also be one of the factors for consideration. When assessing the applications, the Committee will give due consideration to each case before working out the recommendations for school allocation. If necessary, the Committee will arrange interviews with the SSBs.

- (5) Details of the SAEs related to public sector mainstream schools that were considered by the Committee in the past five years are set out in the table below:

<i>Year</i>	<i>Purpose of Allocation</i>	<i>Details of School Site/Premises</i>	<i>Number of Applicant Schools</i>	<i>SSBs and Schools Allocated with School Sites/Premises (Types of Schools)</i>
2009	Primary schools converting to whole-day operation	Ex-premises of St. Mary's Church College	1	Government School/ Hennessy Road Government Primary School (Primary School)

<i>Year</i>	<i>Purpose of Allocation</i>	<i>Details of School Site/Premises</i>	<i>Number of Applicant Schools</i>	<i>SSBs and Schools Allocated with School Sites/Premises (Types of Schools)</i>
2010	Reprovisioning of existing primary schools in need of infrastructure upgrade	Planned new premises at Kai Tak Development, Site 1A-3	19	Anglican (Hong Kong) Primary Schools Council Limited/ S.K.H. Yat Sau Primary School and S.K.H. Ching Shan Primary School (The two schools will merge to form a new primary school upon reprovisioning) (Primary School)
		Planned new premises at Kai Tak Development, Site 1A-4		Po Leung Kuk (PLK)/ PLK Stanley Ho Sau Nan Primary School (Primary School)
		Ex-premises of Sheung Kwai Chung Government Secondary School		The Catholic Diocese of Hong Kong/ Shek Lei Catholic Primary School (Primary School)
2011	Primary schools converting to whole-day operation	Planned new premises at School A at the ex-Tanner Road Police Married Quarters Site at Pak Fuk Road, North Point	2	The Pun U District Association of Hong Kong/ Pun U Association Wah Yan Primary School (Primary School)

<i>Year</i>	<i>Purpose of Allocation</i>	<i>Details of School Site/Premises</i>	<i>Number of Applicant Schools</i>	<i>SSBs and Schools Allocated with School Sites/Premises (Types of Schools)</i>
		Planned new premises at School B at the ex-Tanner Road Police Married Quarters Site at Pak Fuk Road, North Point		The Methodist Church, Hong Kong/ North Point Methodist Primary School (Primary School)
2012	Reprovisioning of existing secondary schools in need of infrastructure upgrade	Planned new premises at Kai Tak Development, Site 1A-2	12	Cognitio College Foundation Limited/ Cognitio College (Kowloon) (Secondary School)
2013	Reprovisioning of existing primary schools in need of infrastructure upgrade	Planned new primary school premises at Area 36, Fanling	6	Tung Wah Group of Hospitals (TWGHs)/ TWGHs Ma Kam Chan Memorial Primary School (Primary School)

When coming up with the recommendations on allocation of school sites/premises to the above SSBs, the Committee, after taking into account a basket of factors, including the quality of the school plans submitted by the applicant schools, operation track records, and so on (for those SAEs for upgrading the infrastructure of schools, the Committee would also consider the physical conditions of the premises of the applicant schools and their locations), was of the view that the performance of the successful applicant schools and their SSBs was outstanding. The quality of their submitted school plans and their operating standard were also excellent. Therefore, after consolidating the merits of these applications in all aspects, the Committee recommended that the school premises should be allocated to these successful applicant schools.

Work of Information Co-ordinator

12. **MR WONG YUK-MAN** (in Chinese): *President, it has recently been reported by the media that the Information Co-ordinator (the Co-ordinator) of the Chief Executive's Office has published an article in a newspaper under a pen-name, criticizing some Members of this Council by name for their stance on the Stamp Duty (Amendment) Bill 2012. Subsequently, in response to enquiries by the media, the Co-ordinator did not deny his authorship of the article and said that he strongly concurred with the viewpoints therein. In this connection, will the Government inform this Council:*

- (1) *of the Co-ordinator's specific duties in formulating public relations strategies regarding the aforesaid Bill; and*
- (2) *of the specific indicators adopted by the Chief Executive's Office for evaluating the Co-ordinator's performance?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, I would like to point out first that government officials explain government policies and set out Government positions through the media from time to time. This is done with a view to facilitating the public's understanding of the underlying considerations, content and details of policies, and soliciting public support through enhanced communication. In explaining and illustrating government policies, public officials make comments in their official capacities, and their remarks also represent the position of the Government.

My consolidated reply to the two parts of the question is as follows:

The Co-ordinator has a wide range of duties, and is responsible for formulating the media and public relations strategy for and co-ordinating the timetable of the introduction of major government policies and programmes in different areas. He will also liaise closely with the Director of Information Services and bureau press officers to ensure effective implementation of media and public relations strategy for major policies; monitor public and media feedback, and help plan and implement the programme of public functions involving media interactions for the Chief Executive. The above duties are also applicable to the Government's work in relation to demand-side management

measures implemented with reference to the property market situation, such as the Stamp Duty (Amendment) Bill 2012.

The performance of the Co-ordinator will be assessed as a whole based on the aforementioned duties. As the work of the Co-ordinator involves wide-ranging, diversified and strategic communications and public relations tasks, it is difficult to evaluate his performance on the basis of specific indicators.

Hong Kong Marathon

13. **MR MA FUNG-KWOK** (in Chinese): *President, it has been reported that some participants of the Hong Kong Marathon pointed out that members of the public had been unable to cheer the participants of the races on both sides of the race routes because they had had difficulties in accessing the routes, most sections of which being on expressways. In addition, as a result of the short duration of road closure approved by the authorities, the starting times for the races were set at an hour far too early and the quota for participants in the races could not be increased to meet the demand. These participants opined that in future, the authorities should consider extending the duration of road closure for the races, and allowing more sections of the race routes to traverse the city centre. In this connection, will the Government inform this Council:*

- (1) *of the respective numbers of road closure applications from sports organizations for holding sports events which were received, approved and rejected by the authorities last year; the mechanism and considerations which the authorities currently adopt for vetting and approving such applications; whether they will take measures to support, as far as possible, the organizers in holding those events for which road closure has been approved; if they will, of the details; and*
- (2) *whether the organizer of the Hong Kong Marathon, when making preparation for the event of this year, had made any request to the authorities for implementing road closure for a duration longer than those of previous years, or for more sections of the race routes traversing the city centre; if it had, of the authorities' responses to such requests and their justifications?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, each year, the Government provides advice on and assistance with arrangements proposed by the Hong Kong Amateur Athletic Association (HKAAA), the organizer of the Hong Kong Marathon, in relation to the race route, starting times, the number of participants, safety measures and road closure duration to help ensure safe public participation.

As the Hong Kong Marathon requires the closure of major roads, the HKAAA has to prepare during the small hours and organize the event to take place in the early morning to minimize its impact on the public. It is very common for marathons to take place in the early morning when the temperature is lower and the air fresher. This can also help to reduce the runners' chance of heatstroke and injury.

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

- (1) In the past year, there were 46 applications from sports organizations to hold sports events involving road closure and special traffic and transport arrangements. All of these applications were approved. When processing these applications, the government departments concerned took account of the scale of individual events, the degree of traffic congestion that might be caused and other potential public impact, and provided advice and assistance to the applying sports organizations with the aim of striking a balance that would allow participants to enjoy the events whilst minimizing the impact on other members of the public.
- (2) It is the practice of the HKAAA to consult district councils and relevant government departments on the race routes and corresponding traffic and transport arrangements. In preparing for the 2014 event, the HKAAA requested relevant government departments and district councils to agree to extend the closure duration of some of the road sections, and the request was agreed to.

Cemeteries and Columbarium Facilities

14. **DR HELENA WONG** (in Chinese): *President, I have learnt that some residents affected by unauthorized private columbaria held a meeting with officials of the Food and Health Bureau in October last year. As the authorities*

had removed the illegal graves on the slope north of Diamond Hill Urn Cemetery and delivered the human remains and cremains to Sandy Ridge Cemetery for burial, those residents requested the Government to remove the urns at the unauthorized columbarium built on illegally occupied Government land by Gig Lok Monastery in Tuen Mun. The Lands Department (LandsD) stated that assistance of the Food and Health Bureau was needed for temporary deposition of such urns at public columbaria while the Food and Health Bureau indicated that it had to seek legal advice on the matter. In this connection, will the Government inform this Council:

- (1) whether the Food and Health Bureau has sought legal advice on the aforesaid matter; if so, of the advice obtained; if not, the reasons for that; and*
- (2) of the legal basis for removing the illegal graves in the vicinity of Diamond Hill Urn Cemetery and delivering the human remains and cremains to Sandy Ridge Cemetery for burial?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the various parts of the question raised by the Member is set out below.

- (1) The Administration is actively considering applying for a court order requiring Gig Lok Monastery to remove the ashes interred on unleased Government land. In order not to prejudice the Government's legal actions, it is not appropriate for us to disclose the details of our legal advice.
- (2) Under section 118(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance), any person who, without the permission in writing of the Authority, buries any human remains, or deposits any urn or other receptacle containing any human remains, otherwise than in a cemetery, shall be guilty of an offence. Furthermore, according to section 118(4) of the Ordinance, any human remains buried, or any urn or other receptacle containing any human remains deposited outside a cemetery may be removed by the Authority and buried or deposited inside a cemetery or otherwise disposed of in such decent manner as the Authority may think fit provided that the consent of the Secretary for Home Affairs shall be obtained before such remains are, or such urn or other receptacle is,

removed. According to section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28), the LandsD may take action against those who occupy unleased Government land without the permission of the Authority.

The Administration first received report of suspected illegal graves on unleased Government land on the slopes outside the northern boundary of Diamond Hill Urn Cemetery from a member of the public in July 2010. Our subsequent investigation revealed that there were some 890 illegal graves at the above location.

After consulting the Wong Tai Sin District Council and obtaining the consent of the Secretary for Home Affairs, the Food and Environmental Hygiene Department (FEHD) and the LandsD arranged joint operations to remove the illegal graves at the above location. While the LandsD would repossess and reinstate the unleased Government land at Diamond Hill, any buried human remains, or any urn or other receptacle containing any human remains that are removed from the illegal graves would be taken by the FEHD to the Sandy Ridge Cemetery for storage. Should they remain unclaimed after six years, the human remains would be cremated with the ashes buried in the communal grave inside the Sandy Ridge Cemetery.

The FEHD and the LandsD posted notices in 2011, 2012 and 2013, informing descendants to remove the illegal graves by a specific deadline or else the Authority would conduct removal action without further notice. After expiry of the final deadline (that is, 5 June 2013), the FEHD and the LandsD commenced removal operations in phases starting from 8 July 2013. By February 2014, 778 illegal graves had been removed, including 520 cases in which the human remains were removed by the descendants themselves voluntarily.

Under Cap. 132, the definition of "human remains" does not include human ashes (ashes). That being the case, the FEHD has no authority to remove ashes under the existing legislation. The aforementioned joint enforcement actions by the FEHD and the LandsD against illegal burials do not involve the removal of ashes.

Handling of Job Applications from Persons with Conviction Records by Disciplined Services

15. **MR TAM YIU-CHUNG** (in Chinese): *President, according to section 2(1) of the Rehabilitation of Offenders Ordinance (Cap. 297) (ROO), where an individual has been convicted for the first time of an offence in respect of which he was not sentenced to imprisonment exceeding three months or to a fine exceeding \$10,000, and has not been convicted of an offence again within three years, the conviction record may generally be withheld in applying for jobs. I have learnt that an applicant for a post in the rank-and-file grades of disciplined services, who has a conviction record that may be withheld under the ROO, was requested by the recruiting department to submit a confirmation of no criminal conviction provided by the Hong Kong Police Force as supplementary information after passing the recruitment examination. As a result, the department was aware of his conviction record and his application was subsequently rejected. In this connection, will the Government inform this Council:*

- (1) *of the number of persons with conviction records which may be withheld under the ROO recruited as government employees in the past three years; among them, of the number of persons employed by the disciplined services and the number of such persons employed in the rank-and-file grades; and*
- (2) *whether it will remove the requirement for persons applying for posts in the rank-and-file grades of disciplined services to submit confirmation of no criminal conviction to the recruiting departments as supplementary information after passing the recruitment examinations; if it will not, of the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): *President, the ROO aims to facilitate the rehabilitation of persons who are convicted the first time and whose offences are minor in nature, and to prevent unauthorized disclosure of their previous convictions. According to section 2(1) of the ROO, where an individual has been convicted in Hong Kong of an offence in respect of which he was not sentenced to imprisonment exceeding three months or to a fine exceeding \$10,000 and has not been convicted in Hong Kong on any earlier day of an*

offence, and a period of three years has elapsed without that individual being again convicted in Hong Kong of an offence, such a conviction shall be considered "spent". Generally speaking, save for some limited exceptions provided in the ROO, the individual shall be deemed to have no conviction record.

However, sections 3 and 4 of the ROO also set out a list of exceptions, specifying the circumstances to which the above arrangements do not apply. Such exceptions cover the admission, employment and authorization-related proceedings of a wide range of professionals and prescribed offices under the ROO, including staff of various ranks of the disciplined services, civil servants on or above Point 27 on the Master Pay Scale, civil servants at directorate level, judicial officers and personnel of financial regulatory bodies.

- (1) An individual whose "spent" conviction records may be withheld for employment purposes under the ROO is not required to declare such records to the recruiting authority when applying for government vacancies. As such, the Administration does not have information on the number of such employees. Regarding the recruitment process for offices to which the non-disclosure arrangement of "spent" conviction records is not applicable, the Administration does not maintain any statistics on whether such employees have any "spent" conviction records.
- (2) The arrangement of requiring an applicant for offices in various disciplined services ranks to declare all criminal conviction records assists the departments concerned in properly assessing the applicant's suitability for appointment to such posts. Notwithstanding an applicant's criminal conviction record, the department concerned will, in the course of the recruitment process, give due consideration to all relevant factors, including the ability and performance of the applicant, the nature and gravity of the offence which led to the conviction, its relevance to the duties of the post concerned, the job requirements of the post, and so on, with a view to ascertaining the applicant's overall suitability for appointment to that post. Each case will be handled having regard to its individual circumstances. Disciplined services staff, in view of their duties and powers, are required to maintain a high degree of

integrity and probity to meet the reasonable expectation of the public. In this connection, the requirement for a full and detailed disclosure of conviction records is an arrangement that seeks to strike a balance between public interests and offenders' rehabilitation opportunities. There is no plan on the part of various disciplined services to remove such a declaration arrangement.

US Dollar Loan-to-deposit Ratio of Banks in Hong Kong

16. **MR NG LEUNG-SING** (in Chinese): *President, according to the statistics published by the Hong Kong Monetary Authority (HKMA) in January this year, the US dollar loan-to-deposit ratio of banks in Hong Kong rose continuously from about 30% at the end of 2009 to about 85% at the end of 2013. In this connection, will the Government inform this Council if it has assessed:*

- (1) the causes of the aforesaid upward trend and whether this trend will continue in the next few years;*
- (2) whether there is a mismatch between the supply of and demand for US dollar in the current financial system; if so, the causes of that; and*
- (3) the impact of a high US dollar loan-to-deposit ratio on the status of Hong Kong as an international financial centre?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): *President, as an international financial centre, Hong Kong serves as a global hub for financial intermediation where local and international corporates can utilize our efficient platforms for raising funds.*

According to the analysis of the HKMA, the increase in the Hong Kong banking sector's US dollar loan-to-deposit ratio in the past few years was mainly due to an increase in US dollar loan demand arising from the global low interest rate environment, the expansion of regional economic activities, as well as the growing overseas operations, or mergers and acquisitions, of Mainland enterprises. The relevant US dollar loans were mainly driven by foreign bank

branches in Hong Kong, reflecting their credit risk appetite towards business opportunities in Hong Kong. As such loan growth was mainly financed by US dollar funds provided by the head office of the foreign branches and through interbank borrowing, these branches did not actively solicit US dollar deposits locally, leading to an increase in their US dollar loan-to-deposit ratio.

The liquidity position of local banks remains robust, with the overall loan-to-deposit and the US dollar loan-to-deposit ratio standing at 59% and 54% respectively at the end of January 2014. The HKMA monitors regularly the level of currency mismatch of the banking system as an integral part of liquidity risk management. So far, the HKMA does not consider the degree of currency mismatch significant.

As more local and international corporates utilize our efficient platforms for raising US dollar funds, it will enhance the role of Hong Kong as an international financial centre. The HKMA will continue to monitor closely the possible impact of credit growth on the liquidity and credit risk management of banks. In October 2013, the HKMA has introduced the Stable Funding Requirement to strengthen the liquidity risk management of banks. The HKMA has also reminded banks to step up their credit risk assessment and management processes, and to ensure that sufficient credit risk management resources have been devoted to manage a larger loan book.

Government Officials or Departments Publishing Articles in Pen-names

17. **MR JAMES TIEN** (in Chinese): *President, it has been reported that concealing his official capacity, the Information Co-ordinator recently published an article in a newspaper in a pen-name, in which he criticized certain persons and political parties whose stances were different from that of the Government. In response to media enquiries, the Office of the Chief Executive indicated that in interpreting and explaining government policies, officials would expound in their official capacity. In this connection, will the Government inform this Council:*

- (1) *whether any government officials (including the Chief Executive, politically appointed officials and civil servants) or departments have published articles in newspapers or magazines in pen-names in the past three years; if so, provide the details in the table below; if it will not provide such information, of the reasons for that;*

<i>Date</i>	<i>Post title</i>	<i>Pen-name</i>	<i>Name of newspaper/magazine</i>	<i>Article title</i>

- (2) *whether it has assessed the implications of government officials or departments publishing articles in pen-names; if so, of the details; if not, the reasons for that;*
- (3) *whether there is currently any code governing the publication of articles in newspapers or magazines by officials or departments in pen-names; if so, of the details; if not, whether it will formulate such a code;*
- (4) *under what circumstances government officials are not required to disclose their official capacity when publishing articles in newspapers or magazines; and*
- (5) *why the Office of the Chief Executive did not reply to the media directly as to whether the Information Co-ordinator had actually published the aforesaid article?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, according to the Civil Service Code, civil servants shall ensure that no actual, perceived or potential conflict of interest shall arise between their official duties and private interests. They shall ensure that the views they express will not compromise their capacity to fulfil their official duties professionally, effectively and impartially. They shall use information gained by virtue of their official position for authorized purposes only. They shall not disclose documents, information or knowledge received in confidence from others in the course of their duties or by virtue of their official position. Furthermore, civil servants who wish to publish articles in newspapers or magazines in their private capacity of which remuneration will be provided must also obtain prior permission from their heads of department for undertaking paid outside work in accordance with the relevant Civil Service Regulations and departmental guidelines.

With regard to politically appointed officials (PAOs), they shall devote the whole of their time and attention to the discharge of their duties as PAOs of the Government, and shall use their best endeavours to promote the interests of the Government. PAOs' work includes liaising and communicating with the Legislative Council, political parties and groups, the media as well as various sectors of the community and district personalities in various ways (including publishing articles) to explain policies and canvass support. PAOs speak in their official capacities during such liaisons and communications.

We do not have any information on government officials publishing articles in pen-names.

Lodging Arrangements for Foreign Domestic Helpers

18. **MR DENNIS KWOK** (in Chinese): *President, the Standard Employment Contract (SEC) for foreign domestic helpers (FDHs) drawn up by the Government stipulates that FDHs shall work and reside in the residences at the employers' residential addresses written on such contracts. However, it has been reported earlier that some employers have failed to provide FDHs with suitable accommodation, for example, some FDHs having to sleep on the floor in the kitchen or bathroom or sleep beneath a table, and quite a number of FDHs having to rent accommodation elsewhere. In this connection, will the Government inform this Council:*

- (1) *of the number of complaints received by the authorities in the past three years about alleged breaches of the SEC by employers; among such complaints, of the number of cases which were related to the lodging arrangements for FDHs and the number of substantiated ones in those cases; and*
- (2) *whether the authorities will review the policy concerning SEC and its implementation; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr Dennis KWOK's question is as follows:

- (1) The Government has not kept figures on complaints related to alleged breaches of the SEC.
- (2) As in many other jurisdictions, it has been the Hong Kong Special Administrative Region Government's established policy that priority in employment is accorded to the local workforce, and importation of workers is only allowed where there is proven manpower shortage in certain trades that cannot be filled by local workers. In accordance with this principle, FDHs have been imported since the early 1970s to meet the acute shortfall of local live-in domestic workers. "The live-in requirement" is the cornerstone of and prerequisite for the policy of importing FDHs in Hong Kong and it has been clearly specified in SEC.

Apart from the above cardinal policy considerations, the employers' affordability in providing separate accommodation to their FDHs, the additional medical costs, insurance and other risks by allowing FDHs to live out as well as issues such as the additional pressure on private housing and public transportation, and so on, should also be taken into account. The Government considers it necessary to retain the "live-in requirement" and the relevant requirements specified in SEC for FDHs.

If a FDH or an employer is in breach of his/her undertaking in respect of the residential address or accommodation arrangement in SEC and relevant application forms, the Immigration Department will take into consideration their acts and may refuse the FDH's future applications for employment visa or extension of stay; or the employer's future applications for employment of FDHs. If the employer and/or FDH furnish/furnishes false information in the applications, they may violate the Immigration Ordinance (Cap. 115). Under the prevailing legislation, it is an offence for any person to make a false representation to Immigration Officers. Offenders shall be liable to prosecution and a maximum fine of \$150,000 and imprisonment for 14 years on conviction. Aiders and abettors are also liable to prosecution.

Assisting Owners of Old Buildings with No Owners' Incorporation in Carrying Out Building Repair Works

19. **MR CHRISTOPHER CHUNG** (in Chinese): *President, earlier, some property owners living in old and dilapidated buildings sought my assistance, saying they had recently received statutory orders (Orders) issued by the Buildings Department (BD) and the Fire Services Department (FSD), requiring them to carry out specified works on repairs and enhancement of fire protection measures for their buildings. However, despite the assistance provided by the Home Affairs Department (HAD) and a number of owners' meetings having been convened, no owners' corporation (OC) had been formed for the buildings concerned to co-ordinate the works and collect funds for such works. These owners are worried that they may be prosecuted for not complying with the Orders. In this connection, will the Government inform this Council:*

- (1) *of the specific measures taken to assist the aforesaid owners in forming OCs before the expiry of the time limits set for the works concerned; the measures taken to assist individual owners of such buildings in complying with the Orders in the event that OCs cannot be formed all along;*
- (2) *given that at present, the BD will make advance payments and carry out necessary repair works on behalf of the owners only in those cases of emergency, owners' default of an Order or serious nuisance on hygiene, whether the authorities will examine establishing a mechanism whereby individual owners can apply to the BD for the department to carry out the works for their buildings as set out in the relevant Orders and afterwards recover the costs from the various owners; and*
- (3) *whether, in the past five years, the authorities took mandatory building management measures under sections 40B or 40C of the Building Management Ordinance (Cap. 344) for those buildings with serious management problems which posed a danger or risk of danger to their occupiers or owners; if so, of the details of such cases, including how the authorities determined if "there is a danger or risk of danger" to the occupiers or owners?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, to ensure structural safety and upgrade fire safety of buildings, the BD and the FSD may, when necessary, issue statutory orders to individual buildings under the Buildings Ordinance (Cap. 123) and the Fire Safety (Buildings) Ordinance (Cap. 572) respectively to require the owners to carry out specified works to repair the buildings or to enhance basic fire safety facilities.

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

- (1) According to the FSD and the BD, if no OCs have been formed in the building to which a statutory order is served, they will refer the cases to relevant district offices (DOs) with the view to help the owners to form an OC.

District Building Management Liaison Teams (DBMLTs), which are tasked to provide dedicated support and assistance to the owners in dealing with building management matters, have been set up in all DOs. DBMLTs will visit private buildings from time to time to advise and support owners in formation of OCs and other building management matters.

To meet the special needs of old "three-nil" buildings (that is, buildings which do not have an OC or any form of residents organizations and have not engaged any property management company) with low rateable values, the HAD has introduced the Building Management Professional Advisory Service Scheme (BMPASS) in 2011. Under the BMPASS, the HAD has commissioned property management companies to provide owners of 1 200 "three-nil" buildings with free professional advisory services on building management and safety, which include to pay household visits, assist the owners to form OCs, apply for various building maintenance subsidy schemes and loans, and assist in conducting building maintenance works. In the past three years, the BMPASS has formed or reactivated 148 OCs, the results of which far exceed our original targets. In view of its encouraging results and support by owners of old buildings, local communities and District Council members, the HAD will launch the second

phase of the BMPASS in April this year to serve and assist a new batch of 1 200 "three-nil" buildings: Priority will be given to buildings which have been served with statutory orders.

Moreover, the HAD has implemented the Resident Liaison Ambassador (RLA) Scheme to recruit owners and residents of "three-nil" buildings as RLAs. RLAs will organize the owners and residents to deal with daily building management issues on one hand, and act as a bridge between the Government and the owners/residents on the others. So far, more than 1 000 ambassadors have been recruited from over 520 "three-nil" buildings. Through the network of RLAs, the HAD has also succeeded in promoting the formation of OCs.

As advised by the BD and the FSD, building owners are usually given one year to comply with the Fire Safety Directions (FS Directions) issued pursuant to the Fire Safety (Buildings) Ordinance (Cap. 572). In case the owners need more time to prepare for and carry out the improvement works (including formation of OCs), the departments concerned will, without compromising the basic fire safety, adopt a flexible and pragmatic approach in handling individual cases, and give reasonable consideration to applications for extending the compliance period of the FS Directions taking account of various factors such as the scale of works and justifications provided by the owners. As for individual building for which full compliance with the requirements is not possible due to structural or spatial constraints, the BD and the FSD may, having regard to individual circumstances and information furnished by the owners/OCs or their authorized persons, consider reviewing some of the requirements in a flexible manner or accepting the alternative proposal put forward by the owners in the light of individual cases and the information submitted. The BD and the FSD are prepared to meet with owners/OCs or the authorized persons they have engaged to explain to them the requirements of improvement works under the FS Directions and assist them in solving potential problems associated with the engineering works.

If the owners of building which does not have an OC but served with statutory orders under the Buildings Ordinance are unable to line up the required maintenance works and consequently fail to comply with the statutory orders before the deadline, the BD may, where there are obvious dangers to the buildings or in case of emergency, arrange government contractors to carry out the necessary repair works in accordance with the Buildings Ordinance and recover the full cost of the works, together with a supervision charge and a surcharge of not exceeding 20% on the cost of the works, from the owners upon completion of the works.

In addition, the Hong Kong Housing Society and the Urban Renewal Authority have jointly administered the "Integrated Building Maintenance Assistance Scheme" to provide owners of old buildings with financial assistance and technical support for building maintenance. Eligible buildings (even they do not have OCs) may apply for "Common Area Repair Works Subsidy" or "Common Area Repair Works Interest-free Loan" under the scheme to carry out repair works required for the common areas. The owners may also apply for "Owners' Corporation Formation Subsidy" to form an OC.

- (2) Owners have the responsibility on timely repair and maintenance of their buildings. As mentioned above, there are mechanisms in place under the BD for arranging government contractors to carry out the necessary repair works in accordance with the Buildings Ordinance if the owners fail to comply with an order and when there are obvious dangers to the buildings or in case of emergency. As far as the Fire Safety (Buildings) Ordinance is concerned, the requirement to carry out such works is to enhance the fire safety of target buildings to modern standards, but it does not mean that those buildings have imminent or obvious fire hazards. There is no provision in the Ordinance empowering the enforcement authorities to carry out works for upgrading fire safety standard at target buildings and then to recover costs from the parties concerned upon completion of works. Generally speaking, in the absence of power conferred by law, consent must be obtained from all owners (specific arrangement subject to the deeds of mutual covenant) before

maintenance and repair works can be carried out for the common areas of a building without an OC. In such circumstances, government departments or other organizations are not in a position to carry out such works on the owners' behalf despite the consent from individual owners.

- (3) Under section 40B of the Building Management Ordinance (the Ordinance), in cases where no person is managing a building, the management committee (MC) has failed to perform the duties of a corporation under the Ordinance and there is a danger or risk of danger to the occupiers or owners of the building, the authority may order the MC to appoint a building management agent for the purposes of managing that building. It is stipulated under section 40C of the Ordinance that in cases where a MC has not been appointed under section 3, 3A or 4 of the Ordinance, no person is managing a building and there is a danger or risk of danger to the occupiers or owners of the building, the authority may apply to the Lands Tribunal for assigning an owner as the convenor of a meeting of owners for the purposes of appointing a MC or building management agent by the owners. If no MC or building management agent is appointed at the meeting of owners, the convenor may appoint a building management agent directly.

In the past five years, there were no such cases in which the authority had to exercise the powers under section 40B or 40C of the Ordinance in the light of a danger or risk of danger posed by buildings with serious management problems to the occupiers or owners of the buildings.

Learning Chinese as a Second Language by Ethnic Minority Students

20. **MS CLAUDIA MO** (in Chinese): *President, the Policy Address of this year states that from the 2014-2015 school year onwards, the Government will implement a "Chinese Language Curriculum Second Language Learning Framework" (Learning Framework) for ethnic minority students in primary and secondary schools. However, the authorities are yet to make public the details*

of the Learning Framework. Regarding learning Chinese as a second language by EM students, will the Government inform this Council:

- (1) of the authorities' specific policy objectives, monitoring mechanism and effectiveness evaluation indicators in respect of learning Chinese as a second language by ethnic minority students; the differences between the Learning Framework and the "Chinese language as the second language" curriculum, which the Chief Executive undertook in his election manifesto to develop; the specific justifications of the authorities for adopting the former rather than the latter for assisting ethnic minority students in learning Chinese language;*
- (2) how it will formulate the Learning Framework; whether it will invite the community at large and professionals to participate in the relevant work;*
- (3) whether it has drawn up a timetable for a regular review on the effectiveness of the Learning Framework and its enhancement;*
- (4) given that Cantonese is the main form of spoken Chinese used in listening and speaking by students in mainstream schools, whereas modern Chinese is the standard written form for writing and reading, and there are many differences between the two forms, of the measures put in place by the authorities to ensure that ethnic minority students can overcome the barriers arising from such differences when they learn Chinese as a second language;*
- (5) whether it has conducted any study on setting up specialized schools providing courses on Chinese as the second language for ethnic minority students to take after school, so that they only need to take subjects other than Chinese language in the mainstream schools; if it has, of the outcome of the study; if not, the reasons for that;*
- (6) whether it will consider setting up a research centre for teaching and learning Chinese as a second language, in which experts, academics and front-line teachers who are acquainted with the subject of ethnic minority education conduct joint studies and assess the effectiveness*

of different teaching modes by adopting an evidence-based approach; and

- (7) *as some members of the education sector have pointed out that the Chinese Language curriculum of the Hong Kong Diploma of Secondary Education Examination (HKDSEE) is too difficult for ethnic minority students, while the level of the General Certificate of Secondary Education (Chinese) Examination is so low that it is not conducive to ethnic minority students pursuing further education or employment locally, whether the authorities will make reference to the previous practice of the Hong Kong Certificate of Education Examination, in which English language examination papers of two levels were set, and provide additionally an examination paper with a slightly lower level for the Chinese language subject in the HKDSEE?*

SECRETARY FOR EDUCATION (in Chinese): President, my reply to the questions raised by Ms Claudia MO is as follows:

- (1) As announced in the 2014 Policy Address, support measures for the ethnic minorities will be strengthened. As regards the educational support, our goal is to help non-Chinese speaking (NCS) students⁽¹⁾ learn Chinese effectively and integrate into the community, as well as to build an inclusive school environment. Starting from the 2014-2015 school year, we will provide the Learning Framework to address the learning difficulties of the NCS students in primary and secondary schools and help them learn Chinese as a second language with a view to bridging over to mainstream Chinese Language classes. The Education Bureau is inviting research and language experts to formulate a research framework to facilitate the evaluation of the overall effectiveness of various support measures for NCS students, specifically in respect of their Chinese language learning, to ensure the quality of the support services and continually refine them where appropriate. We will continue to communicate with

(1) For the planning of educational support measures, NCS students refer to those whose spoken language at home is not Chinese.

stakeholders and report to the Legislative Council Panel on Education about the progress and effectiveness of the Learning Framework and the various support measures at the appropriate juncture.

The Learning Framework provides a clear set of expected learning outcomes for NCS students at different learning stages. With the Learning Framework, teachers could set the learning targets, progression and expected learning outcomes, and use a progressive "small-step" learning approach to enhance students' learning. In parallel, supporting materials including exemplars of learning tasks, assessment tools, learning materials and teacher notes, will be provided to demonstrate how teachers can make use of the Learning Framework for systematic and progressive curriculum adaptation, addressing the learning difficulties of the NCS students as a second language learner. Teachers can set appropriate learning targets and expected learning outcomes together with the NCS students, with the aim of facilitating their early bridging over to mainstream Chinese Language classes.

Simply put, the Learning Framework can be seen as a "Chinese as a Second Language Curriculum" in the process of learning and teaching under the circumstances that there will be no provision of a simpler Chinese Language syllabus and public examination. The Learning Framework aims to provide a set of progressive, flexible and "small-step" learning objectives to help NCS students learn effectively and to bridging over to mainstream Chinese Language classes as soon as practicable. In accordance with their personal expectations, needs and aspirations and their learning outcomes as portrayed in the Learning Framework, NCS students could choose to acquire Chinese language qualifications through the Hong Kong Diploma of Secondary Education (Chinese Language), the Hong Kong Diploma of Secondary Education (Applied Learning — Chinese) (please refer to part 7), or other internationally recognized qualifications in pursuit of multiple pathways.

- (2) The Education Bureau has formulated the Learning Framework and supporting materials with the concerted effort by school principals,

teachers and tertiary institutions. We have been seeking professional advice from language experts and front-line teachers. We have also invited tertiary institutions to carry out evidence-based study and to refine the "Chinese Language Assessment Tools" in line with the Learning Framework. This will help teachers evaluate students' language competence in setting appropriate learning targets and teaching strategies. The Education Bureau will continue to collect professional views and experience from schools, teachers, language experts and related groups, so as to improve its work.

- (3) The effectiveness of the Learning Framework can only be clearly seen over time. The Education Bureau is inviting research and language experts to formulate a research framework to facilitate the evaluation of the effectiveness of various support measures for NCS students. We will report to the Legislative Council Panel on Education about the progress and the effectiveness of the Learning Framework and the various support measures at the appropriate juncture.
- (4) The Learning Framework provides a systematic set of learning objectives and expected learning outcomes on reading, writing, listening and speaking strands. Referring to the "small-steps" progressions described at different levels of the Learning Framework and using the supporting materials, teachers can employ different intensive teaching and learning modes like pull-out teaching, split-class/group learning, additional lessons, cross-curricular learning, after-school consolidation, and so on, with a view to helping NCS students, especially those at junior levels, learn Chinese systematically and bridge over to mainstream Chinese Language classes as soon as practicable.

To help NCS students to overcome learning difficulties in second language learning, including Graphemes of Chinese Characters, tones, vocabulary, classifier and word order, teachers can use multiple strategies such as "small-steps" teaching approach, learning strategies for each learning strand outlined in the Learning Framework, and organizing an appropriate learning sequence for

beginners (for example, putting greater focus on listening and speaking at the beginning stages, and gradually moving towards the balanced developments in listening, speaking, reading and writing).

In parallel, module exemplars or learning tasks to demonstrate how teachers can flexibly adopt the learning materials at different learning stages with reference to the Learning Framework will also be provided. Other complementary measures, including teachers' professional development programmes, coupled with the Professional Enhancement Grant Scheme funded by the Language Fund (to be announced in the first quarter of 2014) to enhance Chinese teachers' professional capabilities and qualifications in teaching Chinese as a second language, are in the pipeline.

- (5) From the 2014-2015 school year, a provision of \$200 million has been earmarked on an annual basis to step up the education support for NCS students to facilitate their effective learning of the Chinese language and create an inclusive learning environment in schools. We will enhance the additional recurrent funding for schools admitting 10 and above NCS students to implement the Learning Framework, including different intensive teaching and learning modes like pull-out teaching, split-class/group learning, additional lessons, cross-curricular learning, and to regularize the "Project of After-school Extended Chinese Learning for Non-Chinese Speaking Students"⁽²⁾ with a view to helping NCS students, especially those at junior levels, learn Chinese steadily and bridge over to mainstream Chinese Language classes as soon as practicable. As for schools admitting only nine or fewer NCS students, they may apply to the Education Bureau for the necessary funding to provide diversified after-school support in learning Chinese starting from the 2014-2015 school year. In the meantime, we are consulting stakeholders to finalize the implementation details.

The Education Bureau will continue to provide various modes of after-school/during-holiday support for NCS students through the

(2) The "Project of After-school Extended Chinese Learning for Non-Chinese Speaking Students" is a time-limited try-out project, funded by the Language Fund.

Chinese Language Learning Support Centre⁽³⁾ commissioned to a tertiary institution. Besides, we have, starting from 2013, refined the Summer Bridging Programme for NCS students progressing to Primary One up to Primary Four by allowing NCS parents to accompany their children during the Programme. Through parental support and parent-school collaboration, NCS students would be better motivated to learn Chinese. The above measures provide NCS students with diversified opportunities to learn Chinese in and out of school. In light of this, we believe that there is no need to set up a specialized college for "Learning Chinese as a Second Language".

- (6) The Education Bureau is inviting research and language experts to formulate a research framework to facilitate the evaluation of the effectiveness of various support measures for NCS students in learning Chinese as a second language. In the meantime, we will continue to solicit views and good practices from language experts, related groups and front-line teachers for enhancing the learning effectiveness. We believe that there is no need to set up a learning and teaching research centre for "Learning Chinese as a Second Language"
- (7) The provision of the Learning Framework is to ensure that NCS students will have equal opportunities as their Chinese-speaking peers to learn Chinese and for them to aim at obtaining the Hong Kong Diploma of Secondary Education Examination (Chinese Language) qualification. We are aware that students do differ in terms of their talents, personal expectations, needs and aspirations during the learning process. The Education Bureau will hence continue to provide examination subsidy for qualified NCS students to participate in other recognized international Chinese Language examinations⁽⁴⁾. From the 2014-2015 school year, the Education Bureau will, in stages, provide an Applied Learning (Chinese)

(3) In the 2013-2014 school year, there are around 520 NCS students using the support services provided by the Chinese Language Learning Support Centre in 19 venues.

(4) The Education Bureau will continue to provide examination subsidy for eligible NCS students to participate in General Certificate of Secondary Education (GCSE)/International General Certificate of Secondary Education (IGCSE)/General Certificate of Education (GCE) Advanced Subsidiary (AS)-Level and Advanced (A)-Level Chinese Examinations as alternative Chinese qualifications for consideration of admission to local higher education institutions and universities.

subject for NCS students as an alternative to the Hong Kong Diploma of Secondary Education (Chinese Language). The subject will be pegged at Levels one to three of the Qualifications Framework and relevant results will be recorded in the Hong Kong Diploma of Secondary Education certificate. In the meantime, we are working with stakeholders to ensure that these recognized qualifications can benefit the future employment and studies of NCS students.

Support for Hong Kong Athletes Participating in Mega Sports Events

21. **DR KENNETH CHAN** (in Chinese): *President, last month, an athlete representing Hong Kong to participate in the 2014 Olympic Winter Games (OWG) held in Sochi, Russia said that he had requested the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) to arrange for a team doctor to accompany him, but the request was turned down. The incident has received extensive media coverage. It has been reported that no medical official was included in the Hong Kong delegations to the OWG in 2002, 2006 and 2010. Regarding the composition and expenditure of Hong Kong delegations participating in mega international sports events, will the Government inform this Council:*

- (1) *whether it knows if the SF&OC took the initiative to ask the Hong Kong Skating Union (HKSU) as well as the coach and the athlete concerned whether they needed the company of a team doctor; if it did, when it made the enquiry; if not, the reasons for that;*
- (2) *whether it knows, in the previous four OWGs, (i) the reasons for the SF&OC not arranging for any accompanying medical official to provide support for the athletes representing Hong Kong, and (ii) if the SF&OC received any requests for the company of a team doctor from the national sports associations (NSAs), coaches or athletes concerned; if it did, of the reasons for the SF&OC not acceding to such requests;*
- (3) *of the amounts of funding provided by the authorities to support the Hong Kong delegations to the previous four OWGs, the amounts of*

various expenditure items (including air tickets, meals, accommodation, local transportation, uniforms and related medical and health assessments) of each of the delegations, and whether the authorities know the itineraries of various members of each of the delegations in the host cities;

- (4) given that when the authorities granted funding for the 2014 OWG to the SF&OC, one medical official was specifically included in the proposed 13-member Hong Kong delegation, whether they know the reasons for the SF&OC not arranging for any accompanying medical official in the end; whether the authorities will take follow-up actions in respect of this situation; if they will, of the details; if not, the reasons for that; and*
- (5) whether the authorities will, in the light of the aforesaid incident, request the SF&OC to conduct a comprehensive review of the mechanism for determining the compositions of Hong Kong delegations to mega international events as well as the operation of such a mechanism, so as to ensure that participating athletes are provided with comprehensive support and that public funds are properly used; if they will, of the details of the review; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the Summer Olympic Games and the OWG are international multi-sport events organized by the International Olympic Committee (IOC) in accordance with the provisions laid down in the Olympic Charter. All participants in Olympic events are required to obtain recognition from the IOC and comply with the charter. One of the fundamental principles of the charter is that the organization, administration and operation of sport should be governed by an independent sports organization, which has the responsibility to protect its autonomy from any effects which may make it impossible to comply strictly with the provisions of the charter.

In Hong Kong, the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) is the sports organization recognized by the IOC as

having the authority to handle matters relating to the participation of the Hong Kong, China delegation in specified international games.

The Government, by subventing NSAs, the SF&OC and the Hong Kong Sports Institute (HKSI), supports local sports competitions, training programmes, athletes' participation in international sports events and staff training. As regards participation in international sports events, the Home Affairs Bureau examines and approves, on an accountable basis, funding applications from NSAs and the SF&OC for preparation for and participation in such events, and monitors their use of public funds.

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

- (1) According to the SF&OC, once Mr Barton LUI Pan-to, a Hong Kong skating athlete had qualified for the 2014 Sochi OWG, it met the HKSU on 4 December 2013 to discuss the special needs of the HKSU with respect to participation in the games. At a later meeting held on 28 January 2014, the SF&OC did not receive any formal request from the HKSU for inclusion of a medical official in the delegation. In addition, the SF&OC received a report on a physical check-up on the participating athlete from the HKSU on 23 January 2014, in which a doctor of the HKSI certified that the skater was physically fit to participate in the games, and that he had no injuries that would preclude his participation.
- (2) According to the SF&OC, all delegations of National or Regional Olympic Committees (NOCs) of a significant size arrange medical officials according to the quota imposed on the number of team officials. If there is sufficient quota for the delegation, the SF&OC would make suitable arrangements. However, when the quota is not sufficient, NOCs have to consider their options and make decisions accordingly. The SF&OC considers past experience, the needs to undertake administration work on the ground and the needs of participating athletes in making suitable arrangements and providing appropriate assistance. According to the SF&OC, for the past four OWG, it has no record of requests from the NSAs, coaches or athletes concerned for a team doctor to be included in the delegation.

- (3) We examine comprehensively all funding applications that the SF&OC submits for participation in sports events, including the proposed delegation list, a brief description of duties and responsibilities of each delegation member and other related documents. According to the information provided by the SF&OC, the itinerary of the delegation includes working meetings (delegation meetings and working meetings on individual sports events), practice sessions and competitions, as well as relevant preparatory work.

The actual funds allocated to the Hong Kong, China delegation to participate in the 2002, 2006, 2010 and 2014 OWG are as follows:

	2002 (\$)	2006 (\$)	2010 (\$)	2014* (\$)
Air fare	Provided by the then Hong Kong Sports Development Board	52,940	134,030	259,610
Accommodation, meals and local transportation		38,870	51,830	132,110
Equipment used by the Delegation		6,250	4,100	69,460
Medical expenses		-	180	35,820
Uniforms		4,260	29,590	46,800
Other expenses [@]		44,470	44,480	101,140
Total		-	146,790	264,210

Notes:

* Budgeted amount approved for the relevant purposes. The SF&OC has to submit a report and auditor's report to the Government within three months of the end of the games. The final amount allocated will be determined based on the auditor's report.

@ Other expenses include: insurance, souvenirs, meetings and conferences, flag presentation ceremony, receptions, postage, IDD calls and faxes, and audit fee.

- (4) The SF&OC submitted an application for funding to Home Affairs Bureau, which included funding for one voluntary medical official, based on the estimated number of competing athletes as at last

September (the latest estimate was based on a maximum of four athletes competing). The SF&OC learnt in mid-January 2014 that only one athlete had qualified for the OWG, and that the quota for officials had been reduced to five accordingly.

The SF&OC has full discretion in determining the Hong Kong, China delegation list in accordance with the provisions of the Olympic Charter and the regulations of the games concerned. The Government recognizes the SF&OC's authority in determining the Hong Kong, China delegation list in accordance with the situation.

- (5) As mentioned above, the SF&OC has full discretion in determining the Hong Kong, China delegation list in accordance with the provisions of the Olympic Charter and the regulations of the games concerned. The Government recognizes the SF&OC's authority in determining the Hong Kong, China delegation list. It also recognizes that the SF&OC and the relevant NSAs are best placed to assess the necessary level of medical support for a sports event.

As regards the use of public funds, the participation funding is provided on an accountable basis. The SF&OC must submit a report and the audited account to the Government after the Games. To ensure proper use of public funds, we will keep the relevant monitoring mechanism under review and enhance the arrangements as and when necessary.

Handling of Confiscated Ivory by Government

22. **DR ELIZABETH QUAT** (in Chinese): *President, at its meeting in January this year, the Endangered Species Advisory Committee agreed in principle to the proposal of the Agriculture, Fisheries and Conservation Department (AFCD) to dispose of the confiscated ivory in the government stockpile by incineration. The AFCD has indicated that apart from retaining a small amount of ivory for uses permitted under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), it will dispose of the ivory in batches starting from the first half of this year and all the ivory is*

expected to be disposed of within one to two years. In this connection, will the Government inform this Council:

- (1) of the specific method and procedure for the incineration of the ivory, as well as the date of and the disposal quantity for each incineration operation;*
- (2) whether it has plans to, prior to the disposal of the ivory, employ genetic analysis technology to identify the grades, elephant species and places of origin of such ivory, and publish the results of the identification tests, so that Hong Kong will set an example for Mainland China and the Southeast Asian region in combating illegal ivory trade; if it has such plans, of the work schedule; if not, the reasons for that;*
- (3) whether the AFCD had conducted studies on the most appropriate method for ivory disposal before proposing to dispose of the ivory by incineration; if it had, of the results; if not, the reasons for that; and*
- (4) whether it has plans to make (i) the disposal of smuggled ivory all by incineration and (ii) the conduct of identification tests on the ivory prior to disposal, the standard procedure for handling confiscated ivory; if it has such plans, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(1) and (4)(i)

The AFCD has decided to dispose forfeited ivory in the government stockpile by incineration. There will be pre-treatment by cutting ivory tusks into smaller pieces, followed by incineration at high temperature at the Chemical Waste Treatment Centre (CWTC). Apart from retaining a small amount of ivory for potential uses permitted under the CITES, all the forfeited ivory stockpile (about 28 tonnes) will be disposed of by incineration. In future, forfeited ivory would be similarly disposed of on a regular basis. The AFCD

is preparing for the first ivory disposal to be carried out in the first half of this year, followed by disposal of around three tonnes of ivory per month. The disposal of ivory stockpile will be completed in about one to two years.

(2) and (4)(ii)

In collaboration with an overseas forensic laboratory, the AFCD has provided some samples of ivory scraps from recent important ivory seizures to the laboratory for DNA testing. Results of such scientific studies would help enforcement agencies combat poaching of elephants and the wider enforcement community track down the chain of illicit activities. The AFCD would continue such testing on need basis. In addition, in accordance with the CITES guidelines, the AFCD would submit reports on ivory seizures, include the type and amount of ivory, places of origin/export countries of such ivory and other relevant information, to the CITES Secretariat, so as to assist in combating illegal ivory trade internationally.

(3) On the disposal of forfeited ivory, the AFCD strictly adheres to the CITES principles. The AFCD has explored various methods of destruction, including trial incineration at the CWTC in collaboration with the Environmental Protection Department. The results of the trial showed that ivory could be completely destroyed at high temperature. The AFCD has also conducted trials on other methods like stabilization (in which the ivory was first cut into short pieces which was then mixed with cement or sludge. The resulting mixture was then allowed to solidify before dumping at landfill) and crushing by mechanic means. Under the latter two methods (that is, stabilization and mechanical crushing), the treated ivory is not completely destroyed through the process and may still have economical value, hence those two methods are not considered to be proper ways for disposal. Incineration is also used internationally to dispose of forfeited ivory. To prevent the treated ivory pieces from further use, the AFCD considers it more appropriate and effective to dispose of the forfeited ivory by incineration.

BILLS**First Reading of Bills**

PRESIDENT (in Cantonese): Bills: First Reading.

**SHIPPING LEGISLATION (CONTROL OF SMOKE EMISSION)
(AMENDMENT) BILL 2014****MARRIAGE (AMENDMENT) BILL 2014****DUTIABLE COMMODITIES (AMENDMENT) BILL 2014**

CLERK (in Cantonese): Shipping legislation (Control of Smoke Emission)
(Amendment) Bill 2014
Marriage (Amendment) Bill 2014
Dutiable commodities (Amendment) Bill 2014

Bills read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

**SHIPPING LEGISLATION (CONTROL OF SMOKE EMISSION)
(AMENDMENT) BILL 2014**

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, I move that the Shipping Legislation (Control of Smoke Emission)
(Amendment) Bill 2014 (the Bill) be read the Second time.

The main objective of the Bill is to set an objective benchmark for law-enforcement on dark smoke emission by vessels in order to enhance the effectiveness of the Marine Department (MD)'s enforcement efforts. The

inadequacy of the current legislation is that although there are provisions stipulating that a vessel in the waters of Hong Kong must not emit smoke in such quantity as to be a nuisance, there is no provision defining the extent of emission which constitutes a "nuisance" and there is no relevant objective definition. As a result, the MD finds it difficult to adduce evidence and initiate prosecution in each and every case.

The MD has adopted a multi-pronged approach to ameliorate the problem of dark smoke emitted by vessels. Firstly, since 2005, local vessels are required to conduct the smoke emission test during their applications for issue of a certificate of survey annually. In addition, in order to combat the offence of emitting dark smoke by vessels, the MD conducts visual surveys on vessels on the sea annually on a random basis. If emission of dark smoke is found, the MD will issue an advice letter, warning letter or initiate prosecution against the shipowner and captain depending on the severity of emissions.

Through these measures, as well as continuous education and publicity, we note that the emission of dark smoke by vessels has been ameliorated substantially in recent years. Nevertheless, we still consider it necessary to clarify the ambiguity in the law and define the extent of emission which constitutes an offence. Having made reference to the practice of ports in the United Kingdom and the United States in using the Ringelmann Chart to measure dark smoke emissions, we propose that a vessel in the waters of Hong Kong must not emit dark smoke which would appear to be as dark as, or darker than, shade 2 on Ringelmann Chart for three minutes or more continuously. In fact, since 2005, the MD has adopted the same proposed standard to conduct smoke emission test for vessels during annual inspection. In addition, the Audit Commission noted in its Report No. 59 published in October 2012 that the Administration should expedite action to seek legislative support to give effect to adopting the Ringelmann Chart as a reference to measure dark smoke emission from vessels.

Regarding the penalties, we propose to increase the fines for the offence involving emission of dark smoke by non-local vessels so that the maximum fines be increased from the current \$10,000 to \$25,000 for a first offence, and from the current \$20,000 to \$50,000 for any subsequent offence. The proposal seeks to reflect the fact that the engines fitted on board ocean-going vessels are relatively larger and hence the amount of dark smoke emission would be proportionally

greater in the event of improper engine maintenance compared to local vessels. As for local vessels, we propose that the maximum fines will remain unchanged, which is \$10,000 for a first offence and \$25,000 for any subsequent offence.

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

Deputy President, the implementation of the proposals in the Bill will facilitate the enforcement work of the MD against the emission of excessive dark smoke by vessels and tie in with the air-quality improvement policy of the Government. The legislative proposals, which are in line with international practice, are supported by the industry and the Legislative Council Panel on Economic Development. I hope Members will pass the Bill after scrutiny, thereby enabling the early implementation of the relevant provisions in Hong Kong.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Shipping Legislation (Control of Smoke Emission) (Amendment) Bill 2014 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

MARRIAGE (AMENDMENT) BILL 2014

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I move the Second Reading of the Marriage (Amendment) Bill 2014 (the Bill).

The Bill seeks to implement the order of the Court of Final Appeal (CFA) in the case of *W v the Registrar of Marriages* (the W Case). The W Case handled by the CFA was about whether a person who has received a full sex re-assignment surgery (SRS) is eligible to marry a person of opposite sex.

The CFA ruled in the *W* case that the appeal of the Applicant Ms *W* was allowed. The Court considered that it was not wrong for the Registrar of Marriages (the Registrar) to understand the definition of "a man" and "a woman" under the Marriage Ordinance (MO) basing on cases in the United Kingdom, that is, to refer to the biological sex of a party for the purpose marriage. However, since the relevant provisions of the MO and the Matrimonial Causes Ordinance (MCO) deny a transsexual in *W*'s situation who has received a full SRS the right to marry a person of opposite sex, the CFA considered the provisions inconsistent with the right to marry protected by Article 37 of the Basic Law and Article 19(2) of the Hong Kong Bill of Rights (HKBOR).

In July last year, the CFA made the Order that "a transsexual in the situation of the Applicant *W*, that is, one who was male by birth but had received a full SRS to change from "male" to "female", was in law entitled to be included as "a woman" within the meaning of section 40 of the MO and section 20(1)(d) of the MCO and therefore eligible to marry a man according to the MO. The CFA at the same time decided to suspend effect of the Order for 12 months to allow the Government and the Legislative Council enough time to have discussion and to make legislative amendments.

To implement the Order as soon as possible, we propose to amend the MO to provide that a transsexual who has received a full SRS, including male-to-female and female-to-male, is eligible to marry a person of opposite sex basing on his or her re-assigned sex according to the above ruling.

On the advice of experts in this field within the Hospital Authority (HA), the Bill has also stipulated the surgical procedures involved in a full SRS to reflect the *W* Case and the existing requirements in this field in Hong Kong.

At present, a Hong Kong resident who has received a full SRS must submit a medical certificate certifying the surgeries to the authorities to reflect the re-assigned sex on his or her identity card. To obviate the need for these people to present the medical certificate at the point of marriage registration, we have include a presumptive clause in the Bill to stipulate that the sex of any party to a marriage as stated at the time of the marriage in his or her identification document shall, in the absence of evidence to the contrary, be presumed as the sex of that party.

In addition, we propose the addition of a provision to stipulate that the above definition of "male" and "female" is also applicable to section 20(1)(d) of the MCO to ensure that the marriage between a person who has received a full SRS and his or her opposite-sex partner will not be void on the ground that "they are not respectively male and female".

Deputy President, I would like to stress that the objective of the legislation is to implement the Order made by the CFA in respect of the W case as soon as possible. At the same time, the SAR Government attaches great importance to the concerns and views on gender recognition brought forth by the CFA in the judgment of the W Case, including the situation of transsexuals who have not received a full SRS.

Since gender recognition involves extremely complicated legal, medical and social issues, carrying wide-ranging policy implications, the matter should be considered outside the current legislative exercise. In this regard, the SAR Government announced in January this year the formation of a interdepartmental working group (the working group) chaired by the Secretary for Justice to consider legislation and administrative measures required to protect the rights of transsexuals and to make recommendations for appropriate reform. The working group will examine subjects of law relating to the rights of transsexuals in Hong Kong, which include the comparison of the relevant legislation, precedents and system in other jurisdictions. The working group will also conduct consultation at an appropriate time and put forth proposals on appropriate legislation and administrative measures to the authorities. The working group has already started its work.

Deputy President, the Order made by the CFA in July last year was suspended to come into effect for 12 months. We consider that the follow-up work of the SAR Government is the most pragmatic and balanced approach. On the one hand, we follow the Order of the CFA to amend the MO as soon as possible so that persons in Ms W's situation, that is, a transsexual who has received a full SRS, may marry a person of opposite sex basing on his or her re-assigned sex under the MO. On the other hand, the working group led by the Secretary for Justice has commenced working to conduct a detailed study on gender recognition.

Deputy President, at the meeting of the Panel on Security of the Legislative Council held in January this year, we briefed Members on the legislative

proposals in the Bill. I hope Members will continue to render their support to the scrutiny of the Bill at the next stage.

I so submit.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Marriage (Amendment) Bill 2014 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2014

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I move the Second Reading of the Dutiable Commodities (Amendment) Bill 2014 (the Bill) to increase the rates of duty of tobacco by 11.72% to give effect to the proposal in the 2014-2015 Budget, which is to increase the duty per stick by 20 cents. The authorities propose to increase tobacco duty to protect the health of the public, complement the overall tobacco control policy and to strengthen tobacco control measures. This is not a financial measure seeking to increase revenue.

The Bill proposes to amend the Schedule to the Dutiable Commodities Ordinance (Cap. 109) to increase the duty rates on tobacco by 11.72%. The proposed increase in duty rates on tobacco has come into immediate effect since 11 am on 26 February, the date the Budget was announced, according to the Public Revenue Protection (Dutiable Commodities) Order 2014. The Order gives the proposal a temporary effect of four months, and the Government must submit the Bill setting out the proposal to the Legislative Council within the effective period of the Order, so that the Bill will be enacted after scrutiny and passage by the Legislative Council.

The Government's tobacco control policy seeks to protect public health by discouraging smoking, containing the proliferation of tobacco use and minimizing the impact of passive smoking in the public. Over the years, we have been strengthening our tobacco control efforts progressively through a multi-pronged

approach comprising legislation, enforcement, publicity, education, smoking cessation services and taxation.

Article 6 of the World Health Organization (WHO) Framework Convention on Tobacco Control states that price and tax are effective and important means of reducing tobacco consumption. The WHO considers that when prices of tobacco products increase, fewer people use tobacco; those who continue to smoke consume less; those who have quit smoking are less likely to start again; and the young are less likely to start smoking. In this regard, the WHO encourages its members to raise taxes on tobacco products periodically, and recommends raising tobacco taxes to accounting for at least 70% of retail prices.

With the gradual strengthening of tobacco control measures progressively, including increasing tobacco duty, since the early 1980s, smoking prevalence has declined year after year, and the smoking prevalence among persons aged 15 or above dropped from over 23% in 1982 to 10.7% in 2012.

Though Hong Kong has the lowest smoking prevalence around the world, a recent survey indicated that there was a slight increase in female smokers from 3% in 2010 to 3.1% in 2012. Smoking prevalence amongst Primary Four to Six students also increased from 0.2% in the 2010-2011 school year to 0.3% in the 2012-2013 school year. We consider it necessary to continue to strengthen tobacco control work to convey a clear message to the public, that the Government is determined and persistent in tobacco control. As such, we propose to increase the duty rates on tobacco in the Budget announced last month.

Apart from increasing tobacco duty, we will allocate additional resource to other supporting work, including smoking cessation service and the stepping up of combat against illicit cigarettes.

Smoking cessation is an integral and indispensable part of the Government's tobacco control policy to complement other tobacco control measures, including taxation. Moreover, in the past few year, the Government has engaged local non-governmental organizations (NGOs) in providing free smoking cessation services of different approaches, such as medical counselling, Chinese medicine acupuncture, mobile clinics, outreach smoking cessation service to workplace, helping ethnic minorities and new immigrants, and so on.

The number of people receiving the community-based services and support had increased from about 700 in 2009 to 5 400 in 2013. The Hong Kong Council on Smoking and Health has also solicited support from district partners and organized "Quit-to-Win" Smoke-free Community Campaign in all 18 districts.

The Government will continue to seek collaboration with the NGOs in providing free smoking cessation services and supporting the smoking cessation services provided by public organizations, so as to support and assist smokers to quit smoking in order to protect their health and the health of the public.

Colleagues in the Customs and Excise Department (C&ED) have spared no effort in combating illicit cigarette activities all along. The selling and buying of illicit cigarettes are both illegal activities. In the past few years, the C&ED has kept illicit cigarette activities under control through redeployment of manpower to strategically step up boundary control to stop the inflow of illicit cigarettes at source and strengthen urban operations against illicit activities downtown, with the result that the number of public complaints about illicit cigarettes activities has registered a significant drop of about 37 % in 2013 in comparison with 2012.

I implore Members to support the early scrutiny and passage of the Bill to protect public health.

Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2014 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We will now resume the Second Reading debate on the Inland Revenue (Amendment) (No. 3) Bill 2013.

Inland Revenue (Amendment) (No. 3) Bill 2013**Resumption of debate on Second Reading which was moved on 8 January 2014**

DEPUTY PRESIDENT (in Cantonese): Mr WONG Ting-kwong, Chairman of the Bills Committee to study the above Bill will now address this Council on the report of the Bills Committee.

MR WONG TING-KWONG (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee to study the Inland Revenue (Amendment) (No. 3) Bill 2013, I would like to present the Bills Committee's report and brief Members on the salient points of its deliberations.

The purpose of the Inland Revenue (Amendment) (No. 3) Bill 2013 (the Bill) is: To amend the Inland Revenue Ordinance (IRO) to provide to captive insurers a concessionary 50% reduction of the profits tax rate for their business of insurance of offshore risks, that is, one-half of the present rate, which is currently at 16.5%; and following the increase of the maximum relevant income level under the Mandatory Provident Fund Schemes Ordinance from 1 June 2014 onwards from \$25,000 to \$30,000 per month, the deduction ceiling under the IRO will also be increased.

The Bills Committee has held two meetings with the Administration to discuss the Bill. The Bills Committee supports the proposals in the Bill.

Regarding the proposal to provide tax concession to captive insurers, the Bills Committee has examined the benefits for Hong Kong, forecast tax revenue forgone and estimated the number of enterprises, in particular, Mainland enterprises, to be attracted by the proposal to form captive insurers in Hong Kong.

The Administration has explained that attracting enterprises to set up captive insurers in Hong Kong will not only help the development of other related businesses, including reinsurance, legal and actuarial services, but also reinforce Hong Kong's status as a regional insurance hub. The Administration has advised that it will be difficult to provide information on the impact on tax

revenue at this stage as there are currently only two captive insurers in Hong Kong. The Administration will monitor new developments and review the situation after implementation of the proposal for some time. In respect of the number of enterprises to be attracted to establish their captive insurers in Hong Kong, the Administration has pointed out that it would be difficult to estimate the likely number of applications at this juncture. Nevertheless, the Insurance Authority has received quite a number of enquiries concerning the establishment of captive insurers in Hong Kong. The Government also pointed out that as Mainland enterprises are becoming more internationalized and sophisticated, they will increasingly use captive insurance. Being proximate to the Mainland, Hong Kong will benefit from the anticipated growth in the use of captive insurance by Mainland enterprises. The proposed tax incentive, coupled with the policy promulgated by the State Council in June 2012 to encourage Mainland enterprises to form captive insurers in Hong Kong, would provide impetus for Mainland enterprises to consider setting up captive insurers in Hong Kong.

The Bills Committee has also noted that a number of jurisdictions offer more attractive tax concessions to captive insurers than the proposed profits tax concession in Hong Kong. For example, Singapore has waived profits tax on captive insurers' offshore business for 10 years, Bermuda has no corporate tax, whereas Qatar does not impose any profits tax on captive insurers' business. Some members of the Bills Committee were concerned about Hong Kong's competitiveness in attracting captive insurers. The Bills Committee has requested the Administration to explain the rationale for only applying the proposed concession to captive insurers pertaining to their business of insurance of offshore risks. Some members of the Bills Committee considered that the Administration should offer tax concessions of a greater magnitude so as to enhance Hong Kong's attractiveness to captive insurers. Suggestions in this regard include exempting captive insurers from all profits tax or waiving their profits tax in the first two years of their operation in Hong Kong.

The Government has indicated that at present, tax concession is accorded to reinsurers pertaining to their business of offshore risks only, therefore, it proposed to provide the same tax concession to captive insurers. The Government has stressed that tax concession is only one of the many factors of consideration. Hong Kong also provides concessions to captive insurers in terms of lower capital, solvency margin requirements and fees, and so on. Moreover, Hong Kong's fundamental strengths as an international financial centre are also competitive advantages. The Bills Committee has also noted that the

Administration will keep under review the need for further measures to promote captive insurance business in Hong Kong in the light of market developments.

The Bills Committee has also noted that the proposed concessionary profits tax rate will apply to the captive insurer's business of offshore risks from the same grouping of companies to which it belongs. As stipulated in section 2(7)(b) of Insurance Companies Ordinance (ICO), "same grouping of companies" to which the captive insurer belongs may include a company which the captive insurer or any company belonging to the same group holds, or is entitled to control the exercise of, not less than 20% of the voting power at any general meeting. Given the low percentage of controlling stake, that is, not less than 20%, in question, some members of the Bills Committee are concerned whether the scope of the proposed tax concession would be too wide, thereby having implications on tax revenue. The Bills Committee has requested the Government to examine the appropriateness of relying on the definition of captive insurer under the ICO for granting the proposed tax concession.

The Government has advised that the definitions of "captive insurance business" and "same grouping of companies" vary among jurisdictions. In some jurisdictions, the concept encompasses corporations related to each other and includes financial relationships among companies. The Government has pointed out that the definition of "same grouping of companies", that is, "not less than 20% controlling stake", adopted in Hong Kong and the restriction of acceptance of risk only from the same grouping of companies are no less stringent than those in other jurisdictions.

(THE PRESIDENT resumed the Chair)

The Bills Committee has also considered the need to provide a definition of "offshore risks" in the Bill to facilitate the calculation of a captive insurer's assessable profits that are derived from the business of insurance of offshore risks and avoid possible abuse of the proposed tax concession by the captive insurer. The Government has pointed out that "offshore risks" are insured risks located outside Hong Kong. Whether a risk is located outside Hong Kong is a question of fact to be decided on a case by case basis. Any artificial step to alter the location of a risk is unlikely to succeed in the presence of the anti-avoidance provisions under the IRO. The Government also added that "offshore risks" is

already a concept used in granting the existing profits tax concession for reinsurers' business of offshore risks. The Inland Revenue Department (IRD) has not encountered any difficulty in the assessment of profits tax on "premiums from reinsurance of offshore risks" and is not aware of any tax avoidance cases taking advantage of the scope of "offshore risks" in this area. The IRD will monitor the situation and review the need to provide a definition of "offshore risks" in the light of operation of the concessionary regime.

On the other part of the Bill, that is, increasing the deduction ceiling for contributions made by employees or self-employed persons to recognized retirement schemes, Members of the Bills Committee have noted that the amendments to the IRO in this respect are technical in nature and consequential to the commencement of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 on 1 June 2014. Members support the relevant proposed amendments.

Both the Bills Committee and the Administration will not propose Committee stage amendments to the Bill. The Bills Committee supports the resumption of the Second Reading debate on the Bill.

President, next I shall present my personal views.

After years of reform, risk-management techniques in the insurance industry have been continually enhanced and taking out insurance from direct insurers is no longer the only option in risk management. Captive insurer is an innovative financial tool and its advent has resulted in a breakthrough in the techniques of corporate risk management. A captive insurer is established by its parent company and underwrites exclusively the risk of its parent or group companies or their associated companies. Generally speaking, captive insurers are set up because of the special nature of some businesses, which makes it difficult to take out direct insurance in the insurance market, or the business operated involves considerable risks, thus necessitating the payment of high premiums and as a result, the insurance needs of these companies cannot be met.

Therefore, the benefit of setting up a captive insurer is the reduction of insurance costs since a captive insurer does not have to bear the huge marketing and operating expenses that ordinary commercial insurers have to. Moreover, captive insurers can approach reinsurers direct to arrange for reinsurance, thus dispensing with the payment of commissions charged by direct insurers serving

as an intermediary. Moreover, the principal responsibility of a captive insurer is to do a good job of risk management within a group of companies, rather than pursuing the operation goal of making profits, so captive insurers can also charge lower premiums. Another benefit is that captive insurers can formulate risk management strategies having regard to the actual needs of the group to which it belongs, so it can centralize and co-ordinate risk management within the group and enhance the capability of an enterprise in dealing with risks. Captive insurers do not have to pay any premium at the beginning of an insured period and it is usually at a later stage that they have to pay premium to the reinsurer, so the cash flow of a company can be increased.

President, in fact, this risk management tool has a history of 60 years and at present, there are 6 000 captive insurers worldwide and among the enterprises in the Fortune 500, over 90% have made use of captive insurers in risk management.

It can thus be seen that this innovative, cost-effective and flexible risk management tool capable of enhancing corporate competitiveness has gradually become a trend in risk management followed by multinational corporations. Coupled with the sustained economic development on the Mainland, many Mainland enterprises may choose to set up captive insurers in neighbouring Hong Kong. Moreover, since June 2012, the Central Government has introduced a policy to support Mainland enterprises in forming captive insurers in Hong Kong, so there is great scope for the development of the captive insurance business in Hong Kong. However, although such a mode has been widely adopted by European and American corporations, it has still not gained wide prevalence in Asia and is only at a budding stage in Hong Kong where there are only two captive insurers.

For this reason, the Bill proposes to give captive insurers a concessionary profits tax rate at one-half of the normal tax rate to attract more enterprises to set up captive insurers in Hong Kong, thereby making Hong Kong's risk management services more diversified and reinforcing Hong Kong's status as a hub for captive insurance in Asia. This will also be conducive to the development of other related businesses, so the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports it.

However, there are several points which I hope the authorities can pay attention to.

First, as I said when presenting the report just now, at present, some jurisdictions, for example, Singapore and Qatar, have waived profits tax on captive insurers, so their appeal is even greater than the proposed tax rate of 8.25% in Hong Kong. Moreover, in Singapore, their development has reached a stage where there are now over 60 captive insurers managing assets amounting to US\$1.3 billion. In the face of keen competition in the market, not only has Hong Kong failed to seize the opportunities for a head start and has started late, and notwithstanding the fact that it now wants to turn the tables and play catch-up quickly, it seems that it remains conservative and not aggressive enough, not daring to increase the magnitude of its concession by making the tax rate 0%. So at the end of the day, it cannot compare favourably with others in terms of the competitive edge. Therefore, I hope the authorities can monitor the development of the captive insurance sector and that after a period of implementation, it can guide the development of the sector in the light of the circumstances and actively consider enhancing the tax concession, so as to avoid always remaining at the initial stage of the race between the tortoise and the hare, unable to overtake its established rivals.

In addition, during the course of scrutiny, a Member queried the application of the proposed concession to captive insurers pertaining only to their business of insurance of offshore risks but not onshore risks. He believes that the development of captive insurance should be encouraged to protect the onshore insurance sector. In view of this, I hope that the authorities can examine the feasibility of this proposal in their review of the relevant policy in future, so as to promote the development of the captive insurance sector further.

Moreover, since a definition of "offshore risks" is not provided for in the Bill, a Member is concerned that there may be possible abuse of the proposed tax concession by captive insurers. The Administration has said that "offshore risks" is nothing new and that it is not aware of any tax avoidance cases taking advantage of the scope of "offshore risks" in the assessment of profits tax. However, I hope the authorities can consider issuing guidelines to corporations, so that they can understand clearly how tax assessments are made.

More importantly, to corporations in Asia, captive insurance is a novel type of insurance business understood by few people. For this reason, I hope the authorities can step up the promotion of the captive insurance business in Hong Kong, so that corporations in Asia and other countries can gain a better understanding of the regulatory and concessionary measures put in place in Hong

Kong for the captive insurance business and the established advantages that Hong Kong possesses as an international financial centre, as well as assisting corporations in understanding how to promote risk management through captive insurance. In this way, apart from promoting the prevalence of captive insurance, this measure can also maximize the appeal of Hong Kong to corporations in choosing a place to set up their captive insurers.

Lastly, the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 will come into effect on 1 June 2014, so the maximum relevant income level will be increased from \$25,000 to \$30,000 per month. In this connection, the Bill proposes to increase the deduction ceiling for contributions made by employees or self-employed persons to recognized retirement schemes. This is a technical amendment, so the DAB supports it.

With these remarks, President, I support the Bill.

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

MR ANDREW LEUNG (in Cantonese): President, this Bill is divided into two parts, one related to the provision of profits tax concession on the offshore risk insurance business of captive insurance companies and the other to increasing the deduction ceiling for contributions to MPF schemes. Both the Business and Professionals Alliance for Hong Kong (BPA) and I do not have any disagreement about the latter, so our speeches will only focus on the part related to captive insurance.

The BPA and I have all along advocated and supported the promotion of the development of captive insurance and reinsurance by the Government. For this reason, we support the proposal this time around to amend the legislation, so that the profits tax on captive insurers can be reduced by half, so as to attract more corporations to set up captive insurance business in Hong Kong. Captive insurance is relatively speaking a new mode of operation for insurance in Hong Kong with great potential and scope for development. At present, many countries have identified opportunities in this type of new business and are striving to attract corporations to form captive insurers within their jurisdictions. For example, Singapore offers a 10-year tax holiday and the State of Delaware in

the United States also offers concessionary profits tax rates, with a view to attracting captive insurers to set up business there.

The Bill introduced by the Government this time around proposes that the profits tax be reduced by half, so obviously, this is not simply an amendment of a technical nature; rather, this manifests the Government's support for the development of an industry through the adoption of a policy, so this is a policy decision. However, the decision of the Government this time around has aroused some queries in the industrial sector: In captive insurance, the captive insurer is restricted to underwriting insurance of risks of the companies within the same group to which it belongs and in the Legislative Council brief provided by the Government, it is stated clearly that the proposed concessionary profits tax rate is offered to captive insurers for their business of insurance of offshore risks, so to put it more plainly, this is to grant tax reduction to the offshore business of the companies in the same group .

The industrial sector believes this is tantamount to "passing something from the left hand to the right". The Government is happy to support the captive insurance sector policy-wise by reducing the profits tax by half. It even states explicitly that after implementation for a period of time, if it is found that the appeal is not great enough, consideration may be given to reducing the tax rate further, as suggested by Members. However, when it comes to the industrial sector, although similarly, companies in the same group are involved and similarly, cross-boundary businesses are involved since we are involved in the processing trade on the Mainland, why did the IRD tighten the enforcement of the Inland Revenue Ordinance in 2009, such that factory owners are no longer entitled to the depreciation allowance for their machinery?

All along, the sector has been told that the enactment of section 39E back then was designed to prevent tax avoidance by companies by resorting to lease arrangements, rather than hitting out at the normal business operation of the processing trade. The industrial sector has all along explained to the Government that the contract processing or import processing carried out on the Mainland both belong to the same type of processing trade, there are no changes in nature or actual operation and in reality, they are still carried out by the same boss or the same company. The machines purchased by Hong Kong companies are shipped to the Mainland for use by the factories there and the factory owners and relevant machines affected by section 39E are all funded by Hong Kong capital, so this is practically just "passing something from the left hand to the

right", same as the internal operations of other companies in Hong Kong. For this reason, they should rightly be entitled to the depreciation allowances for the machinery and equipment made available for use by the Mainland enterprises free of charge.

President, it is nothing new for the Government to support and provide incentives to the development of a sector through its taxation policy and at present, quite a number of neighbouring countries are doing the same. This time around, the authorities seek to reduce the profits tax on the offshore risk insurance business of captive insurance companies by half. This we welcome. If the magnitude is not great enough, the Administration will have to raise the level of tax reduction to the global level. We also hope that the Government can treat all parties equitably by dealing with the issues related to section 39E in the same manner.

President, I so submit.

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

MR CHAN KIN-POR (in Cantonese): First of all, I wish to thank the Hong Kong Government for sparing no effort in promoting captive insurance, including making efforts to lobby for support on the Mainland for the creation of captive insurance companies in Hong Kong.

At present, the Government proposes to reduce the profits tax rate only by half, so this is still a far cry from our rival, Singapore, where a tax holiday of 10 years is offered. At present, the tax rates imposed by many places around the world are also far lower than that of Hong Kong and some places even do not impose any tax at all. In view of this, I hope that in due course, the Government will review whether or not this arrangement of half-rate concession is still competitive.

In addition, I hope the Government will continue to attach importance to the development of the finance industry by stepping up the examination and promotion of opportunities that will bring more business opportunities to us. I

hope the Government can make continued efforts, so that various trades and industries can have more business opportunities.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank the Chairman of the Bills Committee, Mr WONG Ting-kwong, and other Members, as well as colleagues in the Legislative Council Secretariat for their efforts, which enabled the scrutiny of the Inland Revenue (Amendment) (No. 3) Bill 2013 to be completed smoothly.

The Bill has two purposes: First, to follow up on the proposal made by the Financial Secretary in the 2013-2014 Budget to reduce the profits tax of captive insurers for their business of insurance of offshore risks by half and second, to raise the deduction ceiling for contributions made by employees or self-employed persons to recognized retirement schemes.

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

Captive insurance is a form of self-insurance by companies to underwrite insurance of risks of the companies within the same group to which the captive insurer belongs. A company can set up a captive insurer to provide coverage of specific risks that is not readily available in the market. As a captive insurer can operate with lower overheads (for example, no marketing expenses and

commission to insurance intermediaries), it may charge a lower premium and the parent company can also share the underwriting profits of the captive insurer.

Compared with other regions, the utilization of captive insurance in Asia remains low. We hope that through the provision of tax concession, the development of captive insurance can be promoted, so as to reinforce Hong Kong's status as a regional insurance hub. Attracting companies to set up captive insurers in Hong Kong will help the development of other related businesses, including reinsurance, legal and actuarial services, making Hong Kong's risk management services more diversified and consolidating Hong Kong's position as an international financial centre.

We regularly exchange views with the sector on how to further promote the sustainable development of the sector. Our proposal that starting from the 2013-2014 year of assessment, the profits tax rate for captive insurers be reduced by half for their business of insurance of offshore risks and tax concession be offered to encourage the development of the local captive insurance business precisely represents an active response to the proposals of the sector. Why is the tax reduced only by half? Because when formulating this tax concession, reference was made to the tax concession accorded to reinsurers pertaining to their business of offshore risks.

We propose that the proposed concession accorded to captive insurers be applicable only to their business of insurance of offshore risks. Whether a risk is located outside Hong Kong is a question of fact to be decided on a case by case basis. Since whether a risk is located outside Hong Kong is a question of fact, any step to alter the location of a risk is unlikely to succeed in the presence of the anti-avoidance provisions under the Inland Revenue Ordinance (IRO), in particular, sections 61 and 61A. "Offshore risks" is already a concept used in granting the existing profits tax concession for reinsurers' business of offshore risks and the Inland Revenue Department has not encountered any difficulty in the assessment of profits tax on "premiums from reinsurance of offshore risks".

Although a number of jurisdictions have offered more attractive tax concessions for captive insurers, according to what we gathered from the sector, when companies consider where to set up their captive insurers, tax concession is only one of the many factors considered. We also have to consider the established strengths of Hong Kong as an international financial centre, including a simple tax regime, the rule of law, an abundant supply of talents, the free flow

of information and funds and a highly open and competitive business environment.

The industry has also pointed out that as Mainland enterprises are becoming more internationalized and sophisticated, they will increasingly use captive insurance for reducing insurance cost and better risk management. Being proximate to the Mainland, Hong Kong will benefit from the anticipated growth in the use of captive insurance by Mainland enterprises.

We will also keep under review the need for further measures to promote captive insurance business in Hong Kong in the light of market developments.

To promote captive insurance and showcase the regulatory regime and concessionary measures offered by Hong Kong to interested enterprises, we organized promotional activities in Beijing and in the Asian Financial Forum held in January this year, as well as organizing a workshop jointly with the Hong Kong Federation of Insurers. In the future, we will continue to step up promotion and through the economic and trade networks on the Mainland and overseas, attract enterprises to Hong Kong to set up captive insurers.

After the proposed profits tax concession had been announced in last year's Budget, the Insurance Authority received a number of enquiries concerning the creation of captive insurers in Hong Kong. In addition, the Central People's Government promulgated in June 2012 the policy of encouraging Mainland enterprises to form captive insurers in Hong Kong to perfect their risk management. We believe that the proposed tax concession, together with the policy support of the Central Government, would provide impetus for Mainland enterprises in considering setting up captive insurers in Hong Kong.

Some sectors and Legislative Council Members, including Mr Andrew LEUNG, have proposed the relaxation of section 39E of the IRO to allow Hong Kong enterprises engaging in "import processing" arrangements to claim depreciation allowances for machinery and plant made available for use by the Mainland enterprises. In this regard, the Government has conducted a detailed study and given a detailed explanation on the outcomes of the review and the relevant justifications to the Legislative Council. The conclusion is that the proposal to relax section 39E is not in line with Hong Kong's established taxation principles of "territorial source" and "tax symmetry", and that it would also

arouse concerns about transfer pricing. In view of this, the Government believes that there is no justification for relaxing the restrictions under section 39E.

In addition, the maximum relevant income level under the Mandatory Provident Fund Schemes Ordinance will be increased from \$25,000 to \$30,000 per month with effect from 1 June 2014. Following this, the Bill proposes to raise the deduction ceiling for contributions to recognized retirement schemes from \$15,000 to \$17,500 for the 2014-2015 year of assessment, and then to \$18,000 from the 2015-2016 year of assessment onwards.

Deputy President, I hope Members can support the Bill, so that tax concession can be offered to the captive insurance sector at an early date and employees or self-employed persons can be entitled to a higher deduction ceiling in a timely manner.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Inland Revenue (Amendment) (No. 3) Bill 2013 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Inland Revenue (Amendment) (No. 3) Bill 2013.

Council went into Committee.

Committee Stage

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

Inland Revenue (Amendment) (No. 3) Bill 2013

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Inland Revenue (Amendment) (No. 3) Bill 2013.

CLERK (in Cantonese): Clauses 1 to 9.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 9 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

DEPUTY CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bill: Third Reading.

Inland Revenue (Amendment) (No. 3) Bill 2013

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, the

Inland Revenue (Amendment) (No. 3) Bill 2013

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) (No. 3) Bill 2013 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Inland Revenue (Amendment) (No. 3) Bill 2013.

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Product Eco-responsibility (Amendment) Bill 2013.

PRODUCT ECO-RESPONSIBILITY (AMENDMENT) BILL 2013

Resumption of debate on Second Reading which was moved on 8 May 2013

DEPUTY PRESIDENT (in Cantonese): Dr Kenneth CHAN, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

DR KENNETH CHAN (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on the Product Eco-responsibility (Amendment) Bill 2013 (the Bill), I submit the Bills Committee's report to the Council and report on the deliberations of the Bills Committee.

The main purpose of the Bill is to amend the Product Eco-responsibility Ordinance in order to extend the Environmental Levy Scheme on Plastic Shopping Bags (the Levy Scheme).

The Bills Committee has held 11 meetings in total to deliberate on the Bill with the Administration and receive views from the public. Members generally support the Levy Scheme in view of its remarkable effectiveness in promoting the Bring Your Own Bag habit and reducing the excessive use of plastic shopping bags (PSBs). I shall now briefly report on the Bills Committee's particular concerns.

After studying the various types of exemptions provided under the Bill, particularly exemption for the use of PSBs for food hygiene purpose, the Bills Committee considered the proposed scope of exemption under the Bill very confusing and that conflicts between customers and retailers could arise over whether the PSB charges should apply to PSBs which contain foodstuff items and

pre-packaged promotional items. Some members do not support the proposed extended Scheme given the unclear criteria for exemption, thereby leading to difficulties in compliance, and the confusion felt by the public.

Members have expressed particular concern about "temperature-controlled food" because such food will change its physical state due to temperature difference in the course of its conveyance and something may spill out of the packaging despite that such packaging will have already rendered no part of the food being exposed to the environment. For this reason, the Bills Committee has requested the Administration to consider granting exemption to PSBs used for carrying "temperature-controlled food" across the board. In the light of the Bills Committee's concern, the Administration will move Committee stage amendments (CSAs) to the effect that a foodstuff item that is in chilled or frozen state will be entitled to food hygiene exemption such that a PSB containing such foodstuff item will not be subject to the mandatory charge irrespective of how the item concerned is packaged.

The Bills Committee has noted that under the Bill, a bag "specifically designed for containing the goods" will be regarded as forming part of the goods concerned and thus be exempted from PSB charges. However, the Bills Committee has expressed concern that as the Bill does not provide for a definition for the term "specifically designed", it can be subject to different interpretations, thereby making the exemption criteria confusing. The Administration has explained that in general, "a bag which is specifically designed for containing the goods" refers to (i) a bag, (ii) the bag carries certain design features (such as size, colour, material or shape) and (iii) such design features are specific for the purpose of containing the goods. Whether a bag will be exempted will depend on actual circumstances.

The Bills Committee has noted that the current Levy Scheme adopts a "remittance" approach, under which retailers are required to submit to the Government quarterly the levy income collected from distribution of PSBs. Under the extended Scheme, however, the Administration proposes to adopt a "retention" approach whereby retailers are allowed to retain the PSB charge without the need of remitting it to the Government. The existing administrative requirements comprising registration of retailers and retail outlets, keeping of records as well as submission of quarterly returns to the Government will be removed.

The Bills Committee has expressed reservations about the "retention" approach and the removal of the record keeping requirements. It is concerned that there will not be any means to assess the effectiveness and monitor retailers' compliance with the extended Scheme.

Some members have suggested that a "dual" system be implemented, that is, the "remittance" approach should continue to apply to those retailers which have the ability to comply with the relevant requirements, that is, the chain operator or "large retailer". The dividing line for adopting the "remittance" approach can be the retailer's business turnover and the retail floor area of the retail outlet that the retailer operates. However, some members do not support a "dual" system. They think that differential treatment will be unfair and stress the importance of maintaining a level playing field in the retail sector. They also consider it difficult to draw the dividing line and object to using a retailer's scale of operation as the criterion for differential treatment.

The Administration has explained that as the extended Scheme will cover all retailers, the "remittance" approach with its elaborated compliance system will be too burdensome and the compliance costs too high for small and medium enterprise (SMEs). Furthermore, the record keeping and reporting requirements of the current phase of the Levy Scheme are in essence measures to protect Government revenue as the relevant records can be used for assessing the levy receivable in case of doubts or non-compliance. The requirements are proposed to be removed under the extended Scheme on account of operational feasibility and equality to all retailers. The Administration has also pointed out the practical difficulties encountered in adopting the "dual" system because it is difficult to define who may be a chain operator or "large retailer". A chain operator, whatever defined, might not necessarily mean that he/she has the ability to comply with the "remittance" requirements.

In the light of the Bills Committee's concern, the Administration has obtained consent from the Hong Kong Retail Management Association (HKRMA) to implement a voluntary reporting system, whereby the registered retailers covered by the current phase of the Levy Scheme will be encouraged to provide their PSB usage to the HKRMA on a yearly basis. The HKRMA will then act as a single platform to collate figures provided by those retailers and help release the aggregate figures to the Environmental Protection Department (EPD), and the EPD will release the collated figures on an annual basis. The Bills

Committee welcomes the voluntary measures as agreed by the HKRMA and urges the Administration to work with the HKRMA to encourage more retailers to participate in the voluntary reporting system and to monitor the effectiveness of the extended Scheme.

The Bills Committee has noted that the Bill provides for a fixed penalty system. If a person commits an offence for failing to charge for PSBs provided at the time of sale, the person concerned may be given a fixed penalty notice. The fixed penalty is set at \$2,000. Noting that the level of penalty will be too high for SMEs, the Bills Committee has requested the Administration to consider lowering the penalty level.

The Administration has responded that the penalty level is set at \$2,000 having regard to the level of penalty for offences committed during the current phase of the Levy Scheme. The penalty level should reflect the seriousness of the offence rather than the offender's means. A low penalty level may undermine the deterrent effect against non-compliance. Meanwhile, a fixed penalty system gives an offender an opportunity to discharge liability by paying a fixed fine rather than attending a court hearing, provided that the offender accepts guilt. As far as businesses are concerned, the expenses and opportunity costs for going through court hearings can be even higher.

The Bills Committee has noted that under the Administration's original proposal, the Amendment Ordinance will come into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette. According to the Administration's latest proposal, it will include a specific commencement date, that is, 1 April 2015, as part of the Bill by way of a CSA, instead of leaving it open until the publication of a commencement notice in the Gazette by the Secretary for the Environment. In this connection, the Administration will move two CSAs to jointly provide for the savings and transitional arrangements for the extended Scheme and other necessary amendments to the Product Eco-responsibility (Plastic Shopping Bags) Regulation after a specific commencement date. The Bills Committee has noted that the new approach can expedite the enactment of legislation, so the Administration will have adequate time to make internal arrangements and conduct publicity and education programmes for the public. It can also give the trade time to make preparations for the extended Scheme.

Apart from the CSAs mentioned above, the Administration will also move a CSA to make a minor textual amendment consequential to the commencement of the new Companies Ordinance on 3 March 2014. Clause 4 of the Bill contains a reference to "Cap. 32" which should be revised as "Cap. 622".

The Bills Committee agrees to the CSAs to be moved by the Administration and will not propose any CSAs to the Bill. It also supports the resumption of the Second Reading debate on the Bill today.

Deputy President, I shall now express my personal views on the Bill.

Deputy President, this was the first time I chaired a Bills Committee after joining this Council. Being Chairman of a Bills Committee, I found it a heavy responsibility and an arduous task. As a Legislative Council Member who cares about the environment, supports the promotion of environmental protection and a product responsibility regime, I consider this Bill very important. Hence, the Civic Party supports it in principle.

During the process, however, I have raised several points repeatedly. I also hope to take this opportunity to raise them with Secretary for the Environment WONG Kam-sing direct. If Members have paid attention, should have noticed that the Administration is not regulated by the Bill in a direct manner. In the course of scrutiny, I have kept reminding the Administration, particularly the Environment Bureau and the Secretary for the Environment, to remind the Government as well. The problem now lies in the Government, which has requested us to minimize the use of plastic bags and excessive packaging. But, very often, the Government uses plastic bags and excessive packaging in its own events. What is more, it has failed to apply the most fundamental principle to its own publicity and promotion efforts.

I have in hand an invitation card which is made entirely of plastic. I believe Members who are still here attending the meeting might have received this card from the Home Affairs Bureau earlier inviting them to attend an event titled "Relics from Guangdong, Hong Kong and Macao Museums", in which porcelain relics were featured. I was really baffled by this invitation card. Secretary, why did you see it fit doing this? Why did the Government issue "plastic cards"? Could the Government extend its invitation by electronic means instead? The Government could still demonstrate its sincerity without wasting

resources by producing so many plastic invitation cards. Though someone might consider this card very presentable, I will have to ask myself this question after attending the event: Should I dispose of it in a landfill, thereby increasing its load? Hence, the Government should make up its mind. Given its major direction is to call on the public to minimize the use of plastic bags and retailers and the public to exert less pressure on landfills by bringing their own bags, it should set a good example by preventing the recurrence of such cases.

Deputy President, besides the invitation card I have in hand which is made entirely of plastic, the Government is also fond of handing out a lot of souvenirs in events organized for the promotion of its policies. Regardless of whether or not members of the public consider these giveaways useful, most of the giveaways use excessive packaging which is mostly plastic. For instance, we can find plastic folders, pencils and self-stick notes like this one wrapped inside plastic bags. Why should they be packaged in this way? Does it mean that my office has to keep all these gifts from the Government and these redundant plastic bags used for packaging?

Hence, Deputy President, we hope to take this opportunity to pass a new Bill. Upon the extension of the PSB charges, serious publicity, education and promotion efforts will actually be entailed. Moreover, the Government should begin with itself. Not only should the Bureau for the Environment have no excuse, but it should also not consider it impossible to regulate so many matters relating to various government departments. Actually, I believe there should be only one government. It should not make publicity, promotion and education efforts in environmental protection on the one hand but allow various bureaux and departments to mind their own business and go on damaging the environment and using plastic materials unnecessarily to promote and publicize events for reaching out to the public.

Deputy President, I also hope that government departments can pay more attention to procurement and related activities and step up their efforts. Hence, Secretary, I now instruct you to communicate clearly with other bureaux and all government departments. Given the Secretary's calls on Hong Kong people to bring their own bags, there is no need for the bags handed out by the Government to be laminated. Strictly speaking, under the current Bill, charges should be levied for laminated bags as well, but government departments are not regulated.

Deputy President, shopping bags will certainly give rise to a few problems. In particular, I hope that after the passage of this Bill, the Government will be willing to listen carefully to the various situations that will possibly be faced by retailers and consumers in all sorts of transactions. Insofar as the disposal of plastic bags is concerned, according to the statistics presented by the Government during the scrutiny of the Bill, it turned out that the disposal of plastic bags of several categories has been rising year after year, including plastic bags produced for medicare products, cosmetics, bread, books and stationery, fashion, footwear, and so on. Moreover, the share of these products disposed of at landfills has been on the rise, too. It will be an enormous challenge for the Government to present to us a downward trend through promoting the next stage or extending the PSB Levy Scheme. In order to meet this challenge, the Government must begin with the front line, that is, the awareness and behaviour of retailers and consumers who are at the forefront.

Certainly, many people will say that Hong Kong is a place for consumption or a shopping paradise. Very often, proprietors or shopkeepers doing business in the retail trade dare not offend their customers, with the former charging the latter 50 cents at the most. In fact, when we travel around the world for shopping, we will very often be given friendly and polite reminders of bringing our own bags. Perhaps members of the public will also see a lot of messages encouraging them to get used to bringing their own bags rather than getting an extra plastic bag for convenience. In fact, such a habit should not be encouraged.

What is more, excessive or unnecessary packaging should not be encouraged. In relaying public views during the discussion on this Bill, many members expressed great concern and worry that members of the public cannot get used to bringing their own bags because they consider one bag not enough. As a result, they do not carry their own bags and, what is more, they ask for a few extra bags and turn them into some sort of special packaging, or some of the problems I mentioned when I presented the report on behalf of the Bills Committee just now. When will exemption be granted to plastic bags outside plastic bags? Certainly, specific circumstances can be judged in a specific manner, whereas specific problems can be solved in a specific manner, too. As a general direction, however, I hope members of the public and business operators can understand that excessive packaging should be minimized. Moreover, members of the public should be encouraged to bring their own bags

and reduce the use of unnecessary packaging by all means. Sometimes, a bookstore may even cover the book we buy with a plastic sheet. I do not understand why there are so many ways of packaging considered by me to be redundant. In the end, the plastic products wasted as a result of such packaging methods will only be delivered to landfills. This will simply bring no benefit to planet Earth and no special benefit to economic activities. Neither can I see any benefit to consumers. Hence, we must make the most of this opportunity to make efforts in education, publicity and vigorous promotion in this respect prior to the commencement of the Bill on 1 April 2015 before the policy objective of the Bill to extend the PSB charges can be achieved.

Deputy President, I also wish to take this opportunity to collect a debt from Secretary WONG Kam-sing. Members should know that this extended Scheme is just the second step. Our discussions over the years on product responsibility or producer responsibility schemes have only touched upon half of the PSB charges, that is, major retailers collecting the charges and remitting them to the Government. Today, we shall get the other half done altogether. Anyhow, we still have to deal with many matters in other areas, though they were already mentioned in A Policy Framework for the Management of Municipal Solid Waste (2005). Over the years, producer responsibility schemes in this regard have very often made some noises or, worse still, little noise. Some of these schemes might even have vanished into thin air. Let me cite waste electrical and electronic equipment as an example. I wonder if the Secretary still recalls that not only has the consultation on the document issued by the then Secretary for the Environment Edward YAU on the Producer Responsibility Scheme for Waste Electrical and Electronic Equipment in 2010 been completed, but its report has also been published and presented to the Panel on Environmental Affairs of the Legislative Council. What is the outcome? We have been waiting but it appears that we have lost track of it, right? Among some of the latest policies, it appears that we still cannot see any timetable for its implementation. Will a proposal made in 2005 for scheduled implementation in 2007 be delayed for another seven years so that no trace of it can be found in 2015 or 2016? Why is there such a big lag? It is a seven-year lag.

As for the proposal on vehicle tyres, it was mentioned in A Policy Framework for the Management of Municipal Solid Waste (2005) that it would be implemented in 2007, but now the Government has changed its mind and the proposal will be examined for incorporation. What does that mean? Does it

mean that the Government has to reconsider the matter in view of the new perspective that there is no need to deal with this issue anymore? The Government has also changed its mind on packaging materials and rechargeable batteries, originally scheduled for implementation in 2008 and 2009 respectively, and the relevant proposals will be re-examined for incorporation. Although it is almost time for the proposal on drink containers, or glass bottles, to be put into implementation, relevant details are still missing. According to the original plan, the proposal might be ready for implementation in 2008, but now we might have to face a time lag of seven to nine years.

Deputy President, why must I collect the debt from Secretary WONG Kam-sing? In fact, I already mentioned right at the beginning of this speech that I felt honoured to be Chairman of the Bills Committee and considered it my responsibility to promote producer responsibility schemes with a view to assisting their introduction and implementation in a systematic and orderly manner. However, after persistent waiting, discussions and twists and turns, we have accomplished one task only, that is, the one on plastic bags, not to mention that the best result has yet to be achieved, given the many exemptions granted for the convenience of consumers and retailers. In fact, given the volume of plastic bags disposed of at landfills, the result we have achieved in promoting the BYOB awareness and culture is far from satisfactory. Many follow-up actions have to be taken for us to catch up with a good shopping and consumption culture and awareness which we should have already achieved. Nevertheless, we have not yet been able to achieve good results in this respect. As regards ways to upgrade such awareness, the Government must also work with the Legislative Council and various stakeholders in a systematic manner. People might consider the time taken for dealing with plastic bags has been too long with the exemptions having to be granted and implemented in two phases. Moreover, the Government itself might not have considered seriously whether the gifts given to the public are excessive or packaged excessively, and whether it is appropriate to make plastic invitation cards. How will members of the public look at this matter when the Government cannot even deal with these matters properly? They might think that it is pointless to do anything when the Government cannot even take the lead in setting a good example. The public or I might think in this way. If we refer to the checklist, we will wonder why the Secretary appeared before this Council to put forward his "three landfills and one incinerator" proposal when the Government still had so many outstanding tasks, including coming up with ways to deal with electrical and electronic equipment, vehicle tyres, packaged

materials, rechargeable batteries and drink containers. In fact, I have given the Secretary an initial response, that it appears the Government still has to come up with a clearer plan and direction to persuade the public to do their part properly in participating in producer responsibility schemes in addition to waste reduction at source and waste charging, with the objective of reducing the pressure on the landfills and incinerators to enable our municipal solid waste management policy to provide us with a truly systematic disposal method.

With these remarks, Deputy President, the Civic Party supports this Bill in principle. It also hopes that the Government can, after listening to our views, seriously consider the criticism made by members or me and expeditiously give a clear account on the outstanding issues in connection with the producer responsibility schemes. We hope that every member of society can play a part and fulfil their responsibility in municipal solid waste management.

I so submit.

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

MR GARY FAN (in Cantonese): Deputy President, the Neo Democrats does not support the Product Eco-responsibility (Amendment) Bill 2013 (the Bill). Like other members of the Bills Committee, I have made a lot of efforts in appealing to the Government to make improvements. However, generally speaking, the amendments to the Bill will only turn the role played by the Government in the PSB levy from active to passive. Moreover, it will lose the leading role in examining the effectiveness of the PSB levy. The Government presently tends to rely on retailers' initiative to enforce the newly amended regulatory provisions. Compared with the currently in force proven legislation, this is actually a retrogression.

Deputy President, under the existing law concerning the PSB levy, retailers are required to remit the charges collected from distribution of PSBs to the Government, keep relevant records, and submit quarterly returns on the number of PSBs distributed. After a lot of hardships, the various requirements stated above have gradually been put on the right track and the desired results achieved. Not only can they be used to gauge the effectiveness of the PSB levy, they can

also reflect if there is any change in the habit of members of the public in asking for PSBs from registered retailers. For these reasons, the Government should retain the relevant requirements, so that the Government, the Legislative Council and the public can have a basis to examine whether or not the extension of the scope of the PSB levy can achieve further effectiveness.

Unfortunately, Deputy President, in the new round of amendments proposed in the Bill to extend the PSB levy, the Government has altered this important rule of the game, thus making it difficult for members of the public to continue to monitor the actual effectiveness of the PSB levy. As retailers will not be required to remit the PSB charges in future, the Government can hardly verify the specific details of the distribution of PSBs. Furthermore, provisions concerning the submission of quarterly returns on the number of distributed PSBs to the Government will be repealed, too. This will make it difficult for the public to obtain a full picture of the number of PSBs distributed by retailers. In fact, the Neo Democrats does not understand why the Government has to repeal such a proven levy arrangement and replace it with an unpredictable arrangement with an unknown result.

Although the Government has said that 85% of the members of the retailer trade will report the number of PSBs distributed through the Hong Kong Retail Management Association (HKRMA) and major retailers will proactively donate their proceeds from the PSB charges, and the initiative of retailers has been used by the Government as a tool to successfully convince members of the Bills Committee, I still have to emphasize that the manner of regulation should be incorporated into the amendments to prevent the Government from remaining in a completely passive state in future. The Neo Democrats feels concerned that should the HKRMA refuse to voluntarily collate the records submitted by retailers, the Government, the Legislative Council and the public will have no idea of the actual distribution of PSBs. We are also concerned that should major retailers refuse to donate their proceeds from the PSB charges for green purposes, what can the community as a whole do to monitor certain businesses which are determined to maximize their profits from the PSB charges? Once voluntary measures become non-voluntary, what can the Government do?

Deputy President, the Neo Democrats considers that the amendments proposed in the Bill, if passed after Third Reading today, cannot yield the same results achieved by the existing PSB levy, not to mention enhancing the effectiveness, by relying solely on self-discipline exercised by the retail sector.

On behalf of the public, the Government is now giving up its regulatory authority. The fact that everything will have to be done voluntarily in future means that there is a chance for the seed of a non-regulation to be sown. For these reasons, I will vote against the amendments on behalf of the Neo Democrats. I would also like to implore and urge the Government to think twice about the pros and cons and refrain from being too anxious to make an accomplishment.

Deputy President, I so submit.

MR WONG TING-KWONG (in Cantonese): Deputy President, according to the Administration, obvious results have been achieved since the implementation of the first phase of the Environmental Levy Scheme on Plastic Shopping Bags (the Levy Scheme) for the purpose of curbing the excessive use of PSBs. In view of subsequent consultations and the community's general atmosphere of supporting environmental protection, the Administration has decided to further extend the scope of the Levy Scheme to all retail outlets. Although the Government's hope of changing the public's habit of abusive use of PSBs sounds very pleasant to the ears, shops and stall operators may be held criminally liable at any time because of the levy of 50 cents.

During the discussions held by the Bills Committee on Product Eco-responsibility (Amendment) Bill 2013 (the Bills Committee), members were divided in their views. In particular, the business sector, including me, considers that the Bill will cause great inconvenience to the trade and produce great impacts. Moreover, the Bill is neither fish nor fowl. Not only can it not reduce the excessive use of PSBs, but the cost of enforcement is also extremely high. What is more, enforcement can be rendered impossible, and small shop tenants can easily be caught by the law inadvertently. For these reasons, some members strongly demand that the Levy Scheme should target importers of PSBs. Since there are practically no PSB manufactures in Hong Kong, which means that we rely entirely on the importation of PSBs from abroad, the arrangement for the imposition of the PSB levy will be easier to implement at the import level and can minimize the problems encountered by retailers, irrespective of their scale.

These problems cover several aspects, involving management problems encountered by all shops operated by large, medium, small and mini-enterprises in collecting the PSB charge. As the PSB charge is pre-paid as part of the cost,

it is reasonable for the shops to collect the PSB charge from their customers, except under exceptional circumstances. This implies that the burden of the charge will be borne by the relevant shops, and shop operators may decide whether or not the PSB charge should be levied. As the saying goes, it is justified to impose the levy, but it may be waived on compassionate grounds. This approach can also reduce conflicts between retailers and their customers, especially long-time customers who are like their neighbours. This will prevent the retailers from being engaged in heated arguments with their old customers who have forgotten to bring their own bags over the levy of 50 cents. What is more, the retailers will not violate the law all of a sudden.

Insofar as law enforcement is concerned, my proposal can obviate the need for the Bureau to deploy substantial manpower resources to carry out inspections and spare it of the difficulties in law enforcement. Given the large number of shops throughout the territory, including Hong Kong Island, Kowloon and the New Territories, how many manpower resources have to be deployed before effective law enforcement can be carried out? I am worried that things will turn out like the enforcement of law by the Tobacco Control Office (TCO). Even if a fire breaks out in the Legislative Council Complex because someone smoked indoors, it is still difficult for the TCO to enforce the law because, upon the arrival of its staff, the smoker will more often than not have finished his or her cigarette. The same goes for the imposition of the PSB charge. If additional manpower is deployed for "undercover" operations, how many manpower and resources are required before effective law enforcement can be carried out? Members have also questioned whether the resources deployed are value for money.

Under the Bill, the relevant charge is not required to be remitted to the Government. The Administration has also indicated that retailers will be encouraged to actively consider using the PSB charges for supporting environmental protection or other charity purposes. I consider that the "dedicated-fund-for-dedicated-use" practice can be adopted, so that these charges can be used for the construction of green facilities and the research and development of green technologies in the hope of providing additional resources for promoting environmental protection while reducing the use of PSBs. Nevertheless, the Administration has not stated its position on whether or not it will state more specifically that the charges should be used for such specific purposes as environmental protection, education, and so on. This gives people the impression that the Administration is shirking its responsibility. In this

respect, the Government has a key facilitation role to play, or else it might be difficult for the relevant task to be undertaken smoothly to bear fruit.

I understand that this proposal is not the mainstream view of the Bills Committee because it can hardly achieve the objective of improving the behaviour of consumers in using PSBs. Nevertheless, I have to emphasize that regard has to be given to the business environment and convenience while striving to achieve the relevant results.

Moreover, the Bill proposes that PSBs that contain an item of foodstuffs can be exempted, except where the foodstuff item is already contained in airtight packaging, or no part of the foodstuff item is exposed, and nothing may spill out of the packaging in the course of conveyance. Nevertheless, members are concerned that disputes may arise between retailers and customers over the imposition of levy or exemption granted depending on foodstuff packaging. Under the Bill, a bag "specifically designed for containing the goods" will be regarded as forming part of the goods concerned. However, the exemption criteria are confusing because the Bill does not provide for a definition of the term "specifically designed". Regarding these queries, the Administration has only indicated that whether a bag falls under the exemption under the relevant provision will depend on actual circumstances.

It can thus be imagined that the Administration will face many detailed, specific situations when the Bill comes into operation, which can easily lead to confusion and queries. It is not easy for small traders to understand every detail clearly and act in compliance with the law. For instance, some individually-packed candies and biscuits must be contained in plastic bags when purchased. So, should the plastic bags used for holding these candies and biscuits be considered "specifically designed"? If the bags are regarded as forming part of the goods concerned, will the PSB charge be levied? Hence, the Administration should explain in detail to the traders and lay down clear exemption criteria to avoid confusions and disputes.

In fact, we cannot rule out the possibility of sellers raising the price of goods on the excuse that the PSB levy is included. Even if their customers refuse to accept the PSBs provided, the PSB charges will still not be refunded. The Administration admits that this is the commercial act of individual sellers. However, it cannot extend the scope of the Levy Scheme to cover such

behaviour. Instead, it can only advise consumers and shop operators to deal with such cases properly during the transitional period.

In principle, I do not object to the enactment of legislation because the Administration has taken the moral high ground of environmental protection. After all, small progress is better than doing nothing at all. Insofar as the aforesaid issues are concerned, however, the Bill is not sound. Doing business is different from "selling heroin". The only purpose of retailers in carrying on a business is to make money. They definitely do not want to be punished or held criminally liable inadvertently. Therefore, I propose that education be enhanced after the implementation of the extended Scheme, and a grace period be provided. Moreover, the Administration must not enforce the law strictly. Instead, it should issue warnings and explain clearly to offenders when issuing a fixed penalty notice. The Administration has indicated that it will take approximately 12 months for the Bill to come into operation after its passage into law. I hope more publicity and public education activities can be organized during the transitional period, such that the retail trade can make good preparations.

So far, Members still have no knowledge of what publicity and education activities will be held during this year and how the Government will assist the trade in drafting internal guidelines. Neither do they have any clear knowledge of the adequacy of the relevant efforts made. In addition to the trade, the Administration should also publicize the details of the Levy Scheme among the general public to enhance their understanding and minimize disputes.

I hope that the relevant legislation can be enforced smoothly given the efforts made in publicity and education.

Deputy President, I so submit.

MR KWOK WAI-KEUNG (in Cantonese): Deputy President, the Environmental Levy Scheme on Plastic Shopping Bags, commonly known as the Levy Scheme, was implemented by the Government in phases since 2009, with its first phase covering approximately 3 500 retailers, including supermarkets, convenience stores and medicare and cosmetics stores. According to the statistics compiled by the Government, PSB disposal at the landfills in these three retail categories has dropped sharply in the wake of the implementation of the PSB levy by nearly 80%, from 657 million in 2009 to 156 million in 2012. The

results yielded can be described as positive. Nevertheless, PSB disposal at the landfills in connection with retail categories outside the scope has recorded an alarming increase, from 4 billion in 2009 to nearly 5.1 billion in 2012. As a result, the combined PSB disposal at the landfills has risen rather than dropped. In view of this, the Hong Kong Federation of Trade Unions (FTU) will express support for the extension of the scope of the Levy Scheme to cover the entire retail sector.

Besides extending the scope of the Levy Scheme, the Bill has proposed amendments to the effect that retailers may retain the PSB charges. Hence, the existing administrative requirements comprising registration of retailers, keeping of records as well as submission of quarterly returns to the Government will be removed.

We understand that over 99% of the retail establishments in Hong Kong are SMEs. The relevant proposal can thus help absolve SMEs from allocating more resources or hiring more manpower to perform administrative tasks arising from their administrative burden. However, we must emphasize that measures must be taken concurrently to monitor and ensure the effectiveness of the extended Scheme. In particular, the recovery rates announced lately, in which inconsistencies are found, have failed to reflect accurately the current situation of recovery. Neither is there any statistical breakdown of the volume of imported PSBs. Insofar as this point is concerned, as Mr WONG Ting-kwong said just now, PSBs are not produced locally in Hong Kong. It can be said to be quite easy to compile a statistical breakdown of PSBs because all PSBs in Hong Kong are imported. The Administration should pay more attention to the statistical figures before it can effectively monitor the Levy Scheme and accurately report its effectiveness to the public.

We agree that a fixed penalty system should be introduced to target non-compliance. Though the relevant level of penalty must be commensurate with the relevant ordinance such that, when compared with the level of penalty for littering, which stands at \$1,500, the level of penalty for non-compliance, which stands at \$2,000, is relatively high, for the sake of enhancing enforcement efficiency and the deterrent effect, we think that this level of penalty can enhance the effectiveness of the Levy Scheme. We propose that the Government make proper efforts in education and publicity during the initial stage of implementation, especially making the most of the 12-month transitional period

mentioned just now. We also hope that the Bureau can adopt a less stringent attitude during the initial stage of implementation after the formal commencement of the legislation to enable the public to participate in and support the Levy Scheme sincerely. Meanwhile, we are concerned about the vigour of law enforcement and whether or not there is adequate manpower for law enforcement. The vigour and effectiveness of law enforcement will be adversely affected if the frequency of surprise checks or "undercover" operations is reduced due to inadequate manpower. What is more, the relevant legislation will not serve its purpose at all. Therefore, we call on the Administration to seriously review the manpower situation for purposes of enhancing the vigour of law enforcement in order to ensure a further reduction in the usage of PSBs.

Certainly, it must be noted that discussions were held during our meetings on who should be held responsible if employees are instructed by employers to distribute free PSBs. The greatest concern of wage earners must be their jobs and wages. We have indicated clearly in the meetings that employers should be held responsible because they are the sellers. This has undoubtedly allayed the concern of wage earners.

Regarding the use of PSB charges collected, the FTU has always suggested that the "dedicated-fund-for-dedicated-use" practice be adopted, that is, the money collected should all be spent on green policies. In the past, however, the PSB charges collected by the Government were transferred to the coffers direct without achieving the objective of "dedicated-fund-for-dedicated-use". The amendments proposed in the Bill on the retention of the PSB charges by retailers have sparked heated discussions in the Bills Committee. The FTU supports the relevant proposal in principle because the retention of the PSB charges by retailers may boost their incentive to set aside the PSB charges for green purposes, thereby truly achieving the objective of "dedicated-fund-for-dedicated-use".

However, there is indeed a big question mark over whether or not retailers will be willing to set aside the PSB charges for green purposes. Hence, we hope the Administration can make more efforts to actively encourage retailers to spend the money collected on protecting the environment. In particular, the 3 500 shop operators which used to remit the PSB charges to the Government may take the initiative to co-operate with green groups such that the PSB levy can be used to protect the environment.

To my understanding, some green groups have proposed to retailers that consideration be given to dedicating the PSB charges to the establishment of a green fund in support of the environmental protection activities organized in the community. As a further step in the long run, the Administration should encourage retailers to voluntarily disclose the movement or use of the PSB charges collected to enhance transparency and dispel public misgivings.

The amendments proposed in the Bill seek to regulate, in a drastic manner, the excessive use of PSBs with a view to reducing PSB disposal at the landfills and changing the public's habit of using PSBs. Nevertheless, as the saying goes, "Where there is a measure, there is bound to be a counter-measure". If the use of PSBs is regulated, PSBs could form an integral part of the goods for sale. Or PSBs could be replaced by bags made of other materials — the PSB charges levied in the first phase were a case in point. In view of the imposition of a levy on "T-shirt bags" by the Government, "flat-top" bags with no carrying handles, holes or strings were introduced by retailers. As a result, nearly all department stores and supermarkets have switched to the use of plastic bags with no carrying handles, holes or strings. Furthermore, there is a type of eco-friendly bags called non-woven shopping bags. In fact, the number of eco-friendly bags disposed of at the landfills was 9.88 million in 2009 and nearly doubled to 17.74 million in 2010. Hence, in the long run, the Administration should consider enacting legislation to regulate excessive packaging. Meanwhile, public education should be enhanced and the public encouraged through publicity conducted by the retail sector to develop the Bring Your Own Bag habit with a view to reducing the production of unnecessary waste.

Although the scope of exemption in the extended Scheme might arouse misgivings among the public, I believe the Government can clarify the scope gradually through education and publicity when the transitional period is over. Hong Kong now faces a pressing waste problem. If waste production cannot be reduced drastically, the three landfills in Hong Kong will reach their full capacity one after another within the next five years. Although the public generally endorses the construction of incinerators, they will not be completed until 2022 at the soonest. As the saying goes, distant water cannot put out a fire nearby. Therefore, besides the continued efforts made by the Administration to improve laws and regulations and relevant ancillary facilities, the support and active participation of the general public are necessary before our waste production can

be drastically reduced within a short period of time, thereby upgrading the standard of green living.

Deputy President, I so submit.

MS CYD HO (in Cantonese): Deputy President, in principle I support the amendment proposed by the Environment Bureau this time around to extend the scope of control on the use of plastic bags from bakeries, chain stores, supermarkets and convenience stores to other retail outlet points such as those which sell clothing, sports shoes and books.

In the first phase in which control was imposed of the use of PSBs in supermarkets and bakeries, many people actually recycled these PSBs for reuse. Since the size of the small plastic bags used for carrying bread fits very well, people will place them on the working table in their kitchen for keeping fruit peels, bones or kitchen waste. For those large PSBs from the supermarkets, they will use them as garbage bags. Only that they are quite expensive in costing 50 cents each. But the most important thing is that the people are aware of recycling and reusing these bags.

On this occasion when the scope of regulation is enlarged, any bags containing plastic material, including those "flat-top" bags come also under regulation. As for those rather thick PSBs used in some retail outlets or laminated paper bags, they should come under regulation all the more. This is because the recycle value of thicker plastics is higher than those supermarket PSBs. The case of laminated paper bags is thorny because even if there are people who recycle these bags, they do not know whether these bags should be treated as waste paper or waste plastics. In foreign countries, this kind of bags would usually be incinerated. However, since these bags are colourful, they contain a lot of chemicals and in the process of combustion, it is inevitable that ashes are caused and gases emitted. So this is not a desirable approach to take.

After the scope of regulation is expanded, the number of retail outlets that come under regulation will increase to more than 100 000. It can be seen that work to be done during phase two will reduce the amount of waste significantly. After phase one is implemented, the number of PSBs has decreased from 657 million in 2009 to 156 million in 2012, proving that people generally support the initiative. However, there are still controversies over the details. On this

occasion when phase one is extended to phase two, one thing follows and that is, the Government will no longer collect the 50-cent PSB levy. I believe the Treasury is not eager to collect this levy to pay civil servants their salaries. But if the Government is to collect this PSB levy, it must tell the public clearly how many PSBs are used by the chain retail stores and supermarkets being regulated. Now when the scope of regulation is enlarged, this requirement of remitting the levy income and submitting figures is cancelled.

We understand the reason for this. After the scope of regulation is enlarged, many small stores in the neighbourhood will come under regulation as well, and so are markets managed by the Food and Environmental Hygiene Department. As an example, on the upper floor of these markets with stalls for dry goods, an old lady who sells two towels at \$10 will have to install such a system if she gives just one PSB to her customer. But the fact is, she does not know how to operate the system. Members therefore suggest that a dual system be adopted. In those shops where the relevant system is already in use, such as in those garment retail outlets owned by Mr Vincent FANG who is doing a roaring trade, the system can of course be used. But for those small neighbourhood stores, they can be exempted if a dual system is adopted. We bring up this idea because once this system of submitting the relevant figures is cancelled, the shops will return to their old practice of giving PSBs to their customers but not charging a 50-cent levy.

Under the new law, the only supervision is effected by law-enforcement officers posing as customers. This kind of "undercover" operation may get the innocent caught in the net. As a Member has just said, an employee may act on the instruction of his boss and give PSBs to customers to please them, but he is arrested in such an operation for committing a criminal offence. Just what should he do? We therefore think that there should be two sets of methods to regulate shops of different sizes. But Deputy President, the Government was so brilliant that it threatened us by saying that our stand would mean a violation of the Bill of Rights and the Basic Law.

The Government said that in the absence of a sound reason to support the imposition of two methods of regulation, this will result in discrimination and contravene the Bill of Rights and the Basic Law. I am grateful to our Legal Adviser for explaining to us and also telling colleagues in the Department of Justice and officials in the relevant Policy Bureau that anti-discrimination protection applies to individuals but not commercial establishments or organized

bodies. At that time, the scrutiny of the Bill was nearing completion and there was very little common ground between the Government and us on this point. I must therefore speak in the resumed Second Reading of the Bill to set the record straight. We think what the Department of Justice (DoJ) has said is really nonsense. We must have this put on record. We cannot agree with the explanation given by the DoJ that this is a violation of the Bill of Rights and the anti-discrimination protection. If there is still argument and dispute on this point, I will really debate with the Government even to the Human Rights Commission of the United Nations so that they will be ridiculed. I think we must make it clear here that the legislature does not agree with this view of the Government which is wrong.

Eventually, Deputy President, I would also thank government officials for exerting their best. Members of this Council said that they wanted to propose amendments, but actually this is a complicated matter. Our political party does not have the resources to propose complicated amendments. I was afraid that if there were problems with the drafting, it would still be alright if the amendments were not passed. But once they were passed, there might be confusions in enforcement in future. At last the officials told us that an agreement had been reached with the Hong Kong Retail Management Association where the latter would set up a voluntary reporting system. We will certainly be watching and monitoring it very carefully.

Another thing that set our mind slightly at ease was our visit to the Shatin Transfer Station. We saw how workers at the elementary level counted the number of PSBs and the number dropped from 657 million to 156 million. Deputy President, we were surprised when we heard the figures. It was because since there were so many people throwing away rubbish, how could they come up with figures at such a meticulous level? It turned out that in the Transfer Station, the elementary workers — they are workers who serve the people of Hong Kong by doing such an obnoxious kind of work — they would sample the rubbish by hand, count the number of PSBs in the heaps of rubbish and make projections on the number of PSBs discarded at the landfills.

After watching this, we thought that the procedure of picking PSBs from the rubbish was credible. But on the other hand, the Government should be aware that it had made a mistake. This is because according to the international practice, the number of PSBs counted was wrong. In the 10-year blueprint, the Government said that our recycle rate was as high as 48%. But the rate was

later found to be wrong because part of the plastic waste had been re-exported to places outside Hong Kong. The recycle rate is actually 39%. How many of these are PSBs? How many of them are related to the total number of PSBs in Hong Kong that is calculated by projections made from the rubbish discarded? We will certainly follow this up later in the panel.

Deputy President, another issue of contention is the scope of exemption. We should note that there is excessive packaging in many kinds of foodstuff and other goods. But there are also some others which must be packaged. This point was not considered fully when the Bill was being drafted. An example is later on there will be an amendment by the Government in relation to certain kinds of food with which there may be a hygiene problem if they are not wrapped in plastic bags. These kinds of food are exempted. When we were deliberating on the Bill, we raised the question that for certain kinds of packaged food, such as butter, they are in a solid state when placed in a refrigerator in 4°C, and there is no problem. But once taken out of the supermarket refrigerator, such as when they are put in the trunk of a car and in high temperatures in a car park, they will melt. So we asked the authorities to take this into consideration and exempt those kinds of food whose state will change with changes in temperature.

Certainly, Members are very imaginative and during the scrutiny, they thought up examples like ice cream, popsicles, chocolate, molten chocolate cakes, and so on. This shows that Members of this Council who come from a diverse background can really be more meticulous in scrutinizing Bills than the officials. So despite the long-time taken for scrutiny, the effect is positive.

Lastly, Deputy President, I must talk about the role played by the law. People live together and in large numbers and for the sake of common interest, they must enact laws to regulate certain behaviour or encourage certain acts. Laws on environmental protection such as this Bill which is on reducing the use of PSBs is one such example. After the enactment of these laws, we can actually see some change in culture. For example, we can see that in many book stores, they have nylon bags which can carry heavy objects. These bags are light and can be folded into a very small size. We can put them in our pocket and take them out when we do shopping. Or we can see more men using backpacks and when they buy things of a small size, they will put them into their backpacks. All these are changes in culture and some of them are new habits of living. They come into existence because of the laws. But after all, we cannot expect the law to be so meticulous that it can regulate everything. In the case of

flowers we send to people, we can see that a lot of paper and plastic wrappings are used. The diameter of these wrappings may be more than three feet. There are only one dozen flowers inside, but the paper and plastic wrappings are so thick. Now the law only regulates plastic bags. So what about these things? How are they to be regulated?

So apart from enacting laws, we have to engage in more promotion in culture. The law of course serves some purposes because it can achieve certain goals by regulating certain kinds of behaviour. And certain financial measures can be put in place to activate the law of market economy and hence achieve a leverage effect. An example is when we paid a visit to Europe, we found that the landfills in the United Kingdom would charge £120. So many private operators would engage in burning the rubbish or sending the rubbish to other places in Europe, making a profit from the price difference. All these are the effects brought about by the enactment of laws. But still we think that it would be thorough if we can change the culture. After all, the enactment of legislation is only a process.

Lastly, we have to talk about landfills and incinerators. As I have just said, many PSBs cannot be recycled because certain materials are blended inside and the only solution is burning. But we are afraid that if the proposal regarding incinerators is passed, the Government will make less effort in waste reduction. So Deputy President, we stress that the position of the Labour Party is that the authorities must set aside a sufficient amount of funds each year to promote recycling and reuse. And with respect to land use, administrative measures, laws, infrastructure, and so on, all these should be geared towards the promotion of recycling and reuse. If we do not see any detailed work plan before us, it would be very difficult for us to agree to the construction of incinerators or expanding the landfills. Thank you, Deputy President.

MR VINCENT FANG (in Cantonese): Deputy President, on this topic of product eco-responsibility, I have spoken many times in this Council and so I have to think about what I am going to speak today. I think the Government may well be the greatest employer for a certain special type of work. What type of work is it? And it is "undercover" operation. It is true because we can see how the Government combats illicit cigarettes, catching those with problematic weights and measurements as well as those unscrupulous businessmen. And once this Bill is passed, the Government will sample check if the shops collect the

PSB levy from their customers. All these have to rely on "undercover" operations for enforcement. We can put aside for the moment the question of whether government resources should be expended on this. But according to this Bill, the responsibility of handling plastic bags is given to the shops and citizens. The Government will not have to care any more about plastic bags or assume any responsibility. The fact is, however, PSBs are still something we cannot do without in our daily life. When the Government enacts laws on this on two occasions, it has not put forward any effective measures for the handling of PSBs. This Bill is, as its name suggests, meant to hold the person who uses PSBs responsible. Then may I ask: What is the use of having a government?

When phase one of the PSB Levy Scheme was launched, I asked the Government many times this question: After the citizens have paid 50 cents to the Government, will the Government use green methods to dispose of or do away with this PSB? We all know that there are none. All the Government knows is to impose penalties so that consumers will not want PSBs because they do not want to pay the levy. This method is a downright failure.

Now, in the resumed Second Reading of the Bill today, a nice-sounding excuse is put forward and that is: Phase one of the PSB Levy Scheme is a success and so the Levy Scheme should be implemented on a full scale. However, in my opinion, the Government's attempt to control the use of PSBs through a levy is a failure in terms of a green policy. Now this full-scale Levy Scheme is launched, but it is neither fish nor fowl other than attempt to get rid of this big burden.

The Government says that ever since the PSB Levy Scheme was launched, the number of PSBs distributed by the chain stores which have joined the Scheme has dropped from some 700 million a year to less than 150 million a year now. But it has long been pointed out by these chain stores that they have not distributed so many PSBs and the Government has exaggerated the number. This is because the better it is when the number is exaggerated. That the levy has caused the number of PSBs to decrease so much proves that the PSB levy is a great success. The findings of surveys done by the Government on PSBs collected and separated at the landfills show that it is true that there has been a fall in the number of supermarket PSBs, but the Government does not notice that the overall number of PSBs has increased. Do we know that these figures do not include garbage bags? Meanwhile, statistics from the Census and Statistics Department show that after the PSB Levy Scheme was launched, the import of PSB products into Hong Kong every year has increased. The reason is very

simple. Since PSBs are hard to find, people have to use the black garbage bags which are even larger in size to dispose of rubbish. If people do shopping, they are given non-woven bags. Can we call this a green practice?

So I think that the PSB levy launched by the Government is only a law which aims at bringing Hong Kong on a par with other places. Even if it is considered a success, there is only a reduction of PSBs distributed by the supermarkets, that is, those "T-shirt" bag. Now that the law cannot achieve the aim of reducing the number of PSBs discarded at the landfills, not to say building up a green consciousness and waste reduction awareness among the people. If we are to introduce incineration of garbage under these circumstances, are we not going to burn a huge amount of plastic bags? Will environmental pollution become even worse? I therefore emphasize often that while I support the idea that we should have incineration facilities, the prerequisite is that we have to extract the toxic substances and the recyclables from the heaps of garbage. And the Government should be the one who proposes doing this kind of work.

But the Government wants to put the income from phase one of the PSB Levy Scheme into the public coffers. So the money will go to the public coffers instead of being used to treat garbage bags. This approach is most misleading. As a consumer, I have paid 50 cents to the Government for a plastic bag. I hope that the Government will treat the plastic bag and destroy it. Little did I realize that the Government would do nothing and all it does is to shoot two TV commercials and tell the public that 50 cents are charged for each plastic bag and if reusable plastic bags are used, then people do not have to pay the levy.

I have said many times that it is very important to engage in environmental protection and waste reduction because we live with garbage and it is part of our life. We used to produce a lot of rubbish because it was much too convenient. Now we must foster a green consciousness and awareness of waste reduction among the people through educational efforts. The Government must resort to all kinds of ways and means to single out what are useful from the rubbish. Then these should be reused and recycled. This is what we always call a one-stop 3R concept of reuse, recycle and reduce.

But the Government only says that recycling efforts are very successful and that currently the recycling rate is 50%. However, where has the rubbish which can be reused and recycled gone? Most of them land at the landfills all the

same. People who know something about reuse and recycling will know that for objects like plastic bottles which can be recycled, the first thing to be done is to tear off the label, then separate the plastic lids according to their different colours from the body of these containers. It is only when this is done that the articles collected will be useful. But are members of the public taught to do so? Will they separate the plastic lids from the bottles? Also, with the increasingly low prices for recycled plastic articles, less and less people are engaging in recycling operation.

(THE PRESIDENT resumed the Chair)

The Panel on Environmental Affairs will discuss this later. I will not speak too much on this today. For this kind of law which fails completely to achieve the goal of waste reduction, I will never support it simply because of this green concept that we always talk about.

I oppose the Second Reading of the Product Eco-responsibility (Amendment) Bill 2013 for the reason that we should not allow a law which is a failure to expand in size and the reason for its failure is that the simple imposition of a levy cannot be hoped to be able to foster a green consciousness among the people. The last reason is that when the PSB levy is to be fully expanded, the shops are not required to submit the levy income though. The Government says that it does not want to add to the administrative costs of the SMEs, but as pointed out by many Members during the deliberations on the Bill, this will just allow the shop operators to earn extra profits.

Now the Government wants to impose a levy on household solid waste. If in future the public is asked to buy garbage bags that carry a levy, then should the present PSB levy be revoked? If not, will this lead to duplication in levy? When the government rates are added, will this mean a three-fold levy?

So I have always stressed that some proactive methods should be used to promote environmental protection and waste reduction. First, in education, the Government should engage in educational efforts before the legislation is introduced. This will help build a correct and effective green consciousness. An example is the recycling of plastic drink bottles. Second, the Government should launch a study on the recycling of plastic bags. Third, it should support

the development of the plastic bag recycling industry in Hong Kong and even extend such support to all plastics recycling trades. For if not, we may have to switch to using these so-called bio-degradable plastic bags full scale.

Although I oppose this Bill, I support the amendments proposed by the Government. This is because the details contained therein have responded to the needs of actual circumstances and people will find them less inconvenient. I will talk more on these amendments when we come to the examination of them later on.

I so submit. Thank you, President.

MR WU CHI-WAI (in Cantonese): President, we support the deliberation on the Bill on the PSB levy. This is because after the law was enacted to impose a 50-cent levy on PSBs, it has objectively achieved the effect of changing people's habit of using plastic bags. In fact, after the implementation of this measure, many people have formed the habit of bringing with them a green bag wherever they go. The reason may be that they do not want to pay an extra \$0.5 or for whatever reason, but we have to admit that this is the result of imposing the levy. In other words, it reflects a very important concept, namely if we are to recycle, reduce waste and do not discard objects at will, we have to take a two-pronged approach of imposing penalties and encouraging recycling. Only by doing so can we hope to achieve a meaningful outcome.

Mr Vincent FANG has pointed out clearly just now that the previous legislative exercise can only deal with the problem of PSBs distributed by supermarkets. It seems that the problem of PSBs in other areas is not addressed. Therefore, after the scope of the relevant measure is expanded to cover all areas, all retail outlets will, because of the pressure of statutory requirement, refrain from giving away PSBs. This will send a clear message home to Hong Kong people that they should bring their own green shopping bags when they go shopping.

I also agree with another point raised by Mr Vincent FANG and that is, this move can only deal with the question of distributing PSBs, but it cannot help in the recycling work. Plastic is a very annoying material. It is a byproduct of petroleum and if it is collected properly, it can be reused and recycled a countless number of times. But there are two major problems with this. First, plastics

have a very small weight and this causes some innate problems in recycling. Although plastic bags are not heavy, they take up much space and they have a value and they are not entirely worthless. Recently, I asked a person in the recycling business about the price of plastics and I was told that the price of plastic waste which has not been classified is \$1,000 per tonne. This is \$1 per kg. If we can do some detailed classification, such as separating the plastics of a soft drink bottle from that of a shampoo container, he is prepared to offer a price of \$2,000 per tonne.

It can be seen therefore that plastic waste can really fetch a price and the recycling price may even be comparable to that of aluminium cans. But the greatest difference between the two is that it is much easier to collect aluminium cans. All we need to do is to stamp on the can and flatten it. When these cans fill up a bag, there may be 5 kg or 10 kg. But what about plastic bottles? We may need to collect 50 bottles before they make 1 kg. How can members of the public bring a large plastic bag filled with plastic bottles to the recycling operator? And what does the recycler have to do to flatten all these bottles? The Government knows full well the special characteristics of plastics or other recyclables, and it also knows that these objects are not worthless and all have a market price. But the Government adopts an outdated mindset in recycling. This is where the problem lies.

How do we carry out recycling currently? Mr Vincent FANG has raised the problem associated with those three-colour waste separation bins. Members of this Council have different views on the new tender exercise regarding these bins. This is because as we see in the previous exercise, the recyclers would simply pass the waste plastics collected to other recyclers and the latter would ship them to the landfills for disposal. They regarded the waste plastics collected as domestic waste and so these waste plastics were disposed of in this way. So what is the problem? From the figures available, we can see that there are problems with the methodology. According to information already published, now the amount of plastic waste collected from these three-colour separation bins is about 150 tonnes a year. There are some 500 tonnes of waste paper and there is only a small amount of waste metals. This is because all these waste metals are scavenged by the old women and so are most of the newspapers. All these wastes carry value. What are left are just waste plastics. But the amount is just some 100 tonnes. However, the value of the contract awarded is as much as \$12 million, as disclosed in the old contracts. So a two-year

contract is worth \$12 million. Just think about this: When such a huge amount of resources are used to engage in the recycling of waste plastics on such a small scale, this is in itself a problem.

On the need to engage in educational efforts, I agree that these three-colour separation bins are themselves kind of an educational effort. And now this kind of work is being done in many different areas. In the process we can see clearly that provided that materials have a value, people will recycle them. This applies to aluminium cans, newspapers, and so on. The levy on glass bottles proposed is based on this concept as well. Then when we deal with waste plastics or plastic bottles, can a similar concept be applied? Are there any methods to encourage citizens to hand in their plastic bottles to a midway station? And can more such midway stations be set up for the convenience of the citizens? These stations can be responsible for flattening the plastic bottles, hence reducing the cost of recycling and make it worthwhile.

The same method should be applied to other materials such as kitchen waste. Kitchen waste also fetches a price. There are factories which even plan to produce biochemical fuel from kitchen waste. However, the process of recycling kitchen waste is disappointing. This is because the practice now is too scattered, without any support from an effective logistics system. The Government can think from this perspective and see how logistics systems can help the development of the recycling industry. We have talked about many things which seem to worth very little. If only this problem can be solved, the many items that do not worth a penny, as under discussion today, actually have their respective values. Has the Government ever thought about this? My impression is that the Government does not think this way and it is of the view that it should not interfere with the recycling market. But I just want to point out that the Government should perform better its logistics role in the recycling industry. This does not necessarily mean that the Government has to send trucks to do the recovery. All it has to do is to facilitate members of the public in sending the materials to the logistic points. Once if this part is done well, we can make good use of the market force in the recycling industry.

With respect to this Bill, while I support the proposal from the Secretary, I wish to remind him also that if the Government does not change this mindset, it is only using a huge sum of money to do something which I think is meaningless and a waste of time. This is especially the case for we do not have much time

and even if the proposal about landfills and the incinerator can be launched at once, it will be six to eight years from now before the projects can be completed. Even if the problems associated with the landfills can be solved, it does not mean that funding can be secured at once. So it is a very important issue as to what can be done to foster a change in the habit of the people. Has the Secretary ever thought about this? Even if the levy proposal is passed after discussion, it will come into force only in 2016. If we think from the perspective I have just mentioned, we should realize that many resources do have a price and materials recycled will have their value. If the Secretary can believe in this, what he has to help tackling is the most difficult part, namely logistics. Regardless of whether this is considered an investment or realization of the RCP concept, if only the Secretary can do this job well, we can reap benefits from it.

A few days ago during a discussion with some Honourable colleagues, we said that the setting up of a recycling point in each district, as suggested by the Government, would likely meet with opposition from the local people because they think various kinds of disturbances will be caused. Does the Government have to land itself in such a miserable position as this? First, like it or not, there are many refuse collection points in Hong Kong, and how can the Government tolerate two departments being responsible for the work of waste treatment? The department responsible for treating waste does not care about anything and it considers that it has done its job provided that there is no complaint and no disturbance is caused. But on the other hand, the Environment Bureau which is responsible for recycling and environmental protection has to rack its brains in thinking about how to deal with the problem of waste disposal. These two departments are in charge of waste treatment and disposal separately. But the procedures involved in this course have to rely on consultation with and co-operation between the departments, where seamless operation is lacking. So how can the Government do a good job in this?

If departments shirk their responsibility, their duties and functions in waste management will be affected. When a hearing was held last time, the representative of the workers in the Food and Environmental Hygiene Department pointed out that under the existing law, they could not assist in separating the waste and other kinds of tidying up work within the refuse collection points. We found out after further enquires that this stemmed from a law which was enacted 20 years ago and had not been amended ever since. I therefore think that insofar as product eco-responsibility is concerned, as a

consumer I am responsible and I pay the \$0.5 levy. But the Government is using an outdated law and an outdated approach. Who is then to be held responsible? What have the authorities done except asking Members to support them and insisting that the proposal on landfills must proceed, otherwise things will be in a terrible position? What have the authorities done to break this bottleneck in recycling? If this bottleneck is not broken, even if there is a production line with government subsidies, the problems cannot be solved.

The Secretary should know clearly that the plastics recycling work done by Yan Oi Tong in the Eco-Park is disappointing. The Government has increased the funding for it to set up a production line which is capable of treating 5 tonnes of waste plastics. Yet it does not know from where do the waste plastics come. If we only rely on the plastics recovered from the three-colour separation bins, we will be at a loss as to what should be done for the recovered amount for a full year is only 120 tonnes or an average of 0.3 tonne daily. How can such a tiny amount meet the need of the entire production line? It does not work also if we arrange for trucks to recover the plastics. It will also not work if we ask people to do us a favour and provide the plastic waste. We must pay for it. All these problems in fact stem from the Government's mindset and it is feared that it will land itself in criticisms of collusion with the business and transfer of benefit. As a result, some very stupid methods are used and these include spending more money to let the contractors implement the plan and in the end, these contractors will simply dump the waste plastics at the landfills.

So while I support this Bill, I hope that the Secretary can ponder over the issue and see whether the method and the role played by the Government should be enhanced. Should the tools employed by the Government and the role it plays be enhanced when it decides to take to this path? Should there be consolidation of the duties of the departments so that work in waste management will not be taken charge of by many departments? Under the Secretary's leadership, irrespective of whether the refuse collection points in the housing estates managed by the Housing Department or the refuse collection points on the streets, they should become the recycling stations in waste management. In this way, the Secretary will stand a chance of solving the logistics problems in recycling work which I think are most crucial.

Secretary, after listening to my speech, I hope you can tell me briefly whether or not there is any timetable on the work in these aspects and what can be

done to consolidate these tasks. Even if you may not be able to give an account of it now, I hope you can tell me that these two departments will act according to your instructions.

Thank you, President. I so submit.

MR TONY TSE (in Cantonese): President, I wish to make it clear that I support extending the coverage of the PSB Levy Scheme, but I am worried that as the details of the proposed second phase of the Scheme are still unclear, such as the ambiguous scope and criteria of exemption, the retailers and consumers may have doubts about the charge and payment of the levy, and disputes and confusions may be caused. In addition, there are still some unclear points in the Bill, so the Government has to give a clear account of these before extending the coverage of the Scheme and draw up relevant measures. This will prevent the emergence of problems when the Scheme is launched, and hence enable the smooth and effective operation of the Scheme.

Since July 2009 when the Government launched a product eco-responsibility scheme with a view to curbing the abusive use of PSBs, the 3 500 registered retailers in Hong Kong regulated by phase one of the law have seen a marked reduction in discarded PSBs from 657 million in 2009 to 156 million in 2012. Also, an increasing number of citizens have developed the habit of bringing their own shopping bags. It can therefore be seen that the law has a certain effect in promoting environmental protection. I therefore support the expansion of the scope of the Scheme to cover the entire retail sector. But what is worth paying attention to is that after the first year when the Levy Scheme was put into practice, the Environmental Protection Department has released a survey on the landfills. The findings show that the abusive use of PSBs is serious in areas not covered by the Levy Scheme. From mid-2009 to mid-2010, in the sectors other than the retail trade which is subject to regulation, it is estimated that the amount of PSBs disposed of at the landfills has increased by about 6%. In view of that, the Government and all the people of Hong Kong should address the problem squarely and endeavour to reduce the use and abuse of PSBs.

In the discussions which have lasted for nearly 10 months, the Bills Committee has discussed issues like scope of exemption of the Bill and the related criteria, the change from the "remittance" approach to the "retention"

approach in the PSB Levy Scheme, abolition of the record keeping requirement, and so on. Since I am worried that the extension of the PSB Levy Scheme may encounter many difficulties, I have put forward some suggestions including printing publicity slogans on the PSBs to encourage less use of PSBs. In addition, the Government should explain its enforcement action and scope of exemption so that the retail sector and the public can have a clearer understanding of the extended Scheme. As for the more effective and comprehensive promotion on less use and abuse of PSBs, I suggest that the Government should delineate the responsibilities of PSB manufacturers and importers under the Scheme and work must be done with PSB production and places of origin. The Government may consider imposing a levy on PSB manufacturers and importers.

This PSB Levy Scheme is in fact a scheme of product eco-responsibility. In the course of production, use and disposal of PSBs, apart from actions done by consumers and retailers, the PSB manufacturers and importers also play an important part. They are the sources of use and abuse of PSBs. Therefore, this is a product eco-responsibility scheme. I really do not know why the Government does not include PSB manufacturers and importers in the scope of regulation of the law. Will the Government study and consider introducing new laws or launch a phase three PSB Levy Scheme and start from the source by imposing regulation on the PSB manufacturers and importers? I hope the Secretary can explain these issues later.

President, with respect to the exemption mechanism stipulated in the Bill, despite the numerous explanations given by officials in the Bills Committee, I still think that the scope of exemption and the criteria are still unclear. At the initial stages when the Levy Scheme is extended, there may be some confusions which are inevitable. Certain Members of the Bills Committee as well as I myself are concerned about the question of whether the Government will impose a levy on PSBs distributed in exhibitions and product promotion activities. On the premise of curbing the abusive use of PSBs and upholding product eco-responsibility, I would think that it is reasonable for the Government to impose a levy on PSBs distributed in these activities. But, President, the Government has stressed time and again that as these PSBs do not involve any retail sale of goods, so they do not come under the regulation of the Bill. I am disappointed with the reply given by the Government and I hope the authorities will consider the issues seriously and study how best any abusive use of PSBs in these activities can be pre-empted.

With respect to the "retention" approach as suggested in the Bill, that is, allowing the retailers to retain the PSB charges collected without remitting them to the Government, according to the present administrative requirements, the retailers and retail outlets should register with the authorities, keep relevant records and submit quarterly returns. These requirements will be revoked. I am worried that in future it would become more difficult for the Government to assess the effectiveness of the Scheme and ensure compliance by the retailers in charging consumers the levy. If this assessment and monitoring work cannot be done effectively, this will affect the continued implementation and even a further extension of the scope of the law. As to the retention of the levy by retailers, will the Government formulate measures to encourage retailers to use the charged collected on environmental protection? I hope the Government can look into these issues and, if necessary, formulate measures as appropriate to dovetail with the relevant arrangements.

President, although there are still some ambiguities in the Bill, on the whole, I would still support the PSB Levy Scheme. I also hope that the Government can study and consider whether this 50-cent levy on each PSB is enough to make consumers consider not asking PSBs from the retailers. And for most retail outlets, does this amount of levy serve as a sufficient incentive to encourage them to distribute less PSBs to consumers? The Government should work through the relevant laws to encourage people to use less and abuse less PSBs. But I think it is more important for the public to see the effect of PSBs on the environment and hence remind themselves to use less PSBs. We should cultivate this kind of spontaneous behaviour, which is more important than enacting laws and imposing a levy. So I hope the Government will work more on enhancing education and publicity and not relax such efforts after the law is enacted.

Thank you, President. I so submit.

MR CHAN HAK-KAN (in Cantonese): President, I rise to speak in support of the Product Eco-responsibility (Amendment) Bill 2013. This Bill has been discussed for nearly one year and more than 10 meetings were held. It shows that Members are concerned about whether or not the product eco-responsibility system can be put into practice and it also indicates that the Bill has a far-reaching implications. Meanwhile, many people from the retail sector have

presented various views and worries about the Bill. So we have to pay attention to how a balance can be struck between green legislation and our daily life, especially the business environment of the business sector.

Since July 2009 when the Product Eco-responsibility Ordinance came into force, it is obvious that PSBs disposed of by those registered retailers have fallen significantly in number. It shows that the PSB Levy Scheme has successfully changed the citizens' habit from always asking for plastic bags from the supermarkets to bringing their own shopping bags. This is a good change. There are citizens who tell me that if they have not brought shopping bags with them, they will not go to supermarkets for shopping. This is definitely not because they want to save the 50 cents, but it shows that they attach great importance to and respect for environmental protection. This use of green shopping bags has become a habit that has firmly taken root in their mind. So I wish to point out that phase one of the PSB levy is very successful in educating the public. Therefore, I support very much this legislative amendment to extend the scope of the levy to cover all retail trades.

However, Members should recall that when phase one of the levy was launched, something happened much to our regret and that was, many non-woven bags were distributed on the streets and many of them ended up being discarded at the landfills. The use of paper bags and packaging materials similar to non-woven bags has also increased. Actually, this kind material has an effect on the environment and will add to the burden of the landfills. Therefore, I hope very much that when the scope of the levy is extended this time around, the Government can pay attention as to whether there is any drastic increase in the use of other packaging materials or substitutes for plastic bags. If this is the case, the authorities must engage in publicity and educational efforts and even consider commencing discussions and legislation on a levy on product packaging in the hope that after phase two of the PSB levy is implemented, there will not be more rubbish of other kinds.

We can see that PSBs are used widely and there must be suitable exemption. In the case of wet foods or foodstuffs including wet foods, it is reasonable to use plastic bags to contain unpackaged foods because of hygiene considerations. But as I have said, there are many uses for plastic bags and customers and the shops may have arguments or even a clash over the question of whether a levy should be charged. This is a focus in our discussions in the Bills Committee. I do not wish to see this kind of minor arguments affect the putting

into practice of the policy and undermine the legislative intent of this policy. The Government should therefore pause and think because the extended Scheme covers 100 000 retail outlets, representing a vast difference from the number of 3 500 outlets as previously stated. The Government should carefully think about how best the sales staff at the front line can be effectively educated. This is crucial to the smooth operation of phase two of the levy.

A major controversy in the Bills Committee is whether the levy collected should be remitted to the Government and whether the administrative requirements should be retained. I do not want to talk about the technical details. But I would think that it is desirable to remit the levy collected to the Government. This is because in so doing the Government can more readily assess how many PSBs have been distributed in the community or by the retailers. In terms of assessing the effectiveness of the Scheme, the Government can put the levy income to dedicated uses, something which I have always talked about. The money should be used on causes related to environmental protection. Earlier on an Honourable colleague has talked about the difficulties faced by the recycling trade like capital and business development. Can the levy collected be used to provide subsidies to the recycling trade? Of the 100 000 retail outlets I have just mentioned, most of them are SMEs. I am worried, as also stated by friends in the business sector that these shop owners may not be able to cope with the extra administrative work. So we are back to the problems I mentioned at the beginning of my speech, and that is, how a balance can be struck between environmental protection and not affecting people's life or the business environment. We have to do a good job in protecting the environment and also give consideration to the practical situation. We should note that the aim of this PSB Levy Scheme is not to collect a 50-cent levy from the citizens but as I said at the very beginning, it is to change people's habit and enhance green consciousness. So even if the retailers put the levy income into their own pockets, we hope that they will use the money on causes related to environmental protection or even donate the money for that purpose. These are the things we would want to see.

As for those administrative requirements of making returns, keeping records, and so on, we would think that provided that these can be done by SMEs, they should give them a try by all means. After all, green efforts should be made not just by the Government and members of the public, and people in the business sector should also play a part to help the community. Moreover,

environmental protection is the common goal of everyone and if these people in the business sector are willing to do it, I am sure when the Government compiles statistics on the PSBs given away, it will have more reliable data for reference. So why not? I think the Government should continue to enhance communication with the retail sector and during the 12 months before the formal extension of the Levy Scheme, the Government should put in more educational efforts and try to learn from the retailers what the difficulties and challenges they face in phase two of the Scheme are.

Moreover, the Government can forge a dialogue with the retail associations. This is because, as I know, certain retail associations have drawn up their own voluntary declaration or charter to encourage retailers to make more efforts in environmental protection. It is estimated that 85% of the retailers have shown support for the charter and joined it. We should publicize this message and the Secretary may even spearhead the efforts by inviting retailers which have registered with the Scheme to share their experience with those retailers which have not yet joined in the Scheme. Not only will this boost the confidence of SMEs in phase two of the PSB Levy Scheme but also enable the Government to better assess the effectiveness of the extended Scheme.

President, the amendment proposed in the Bill is the second step taken after the passage of the Bill in 2009 for our endeavours in environmental protection and green efforts. I hope in the days to come, the Secretary can lead us to take the third and fourth steps and foster better conditions for a green society and a green life.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for the Environment to reply.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, our aim in introducing the Product Eco-responsibility (Amendment) Bill 2013 is to extend the scope of coverage of the PSB Levy Scheme from the present number of about 3 500 registered retail outlets to all retail outlets in the retail sector, in order to further reduce the use of PSBs.

First of all, I wish to thank the Chairman of the Bills Committee, Dr Kenneth CHAN, as well as the members, plus colleagues in the Legislative Council Secretariat for their hard work during the past 10 months. The Bills Committee has held 11 meetings and conducted a detailed scrutiny of the Bill. The Bills Committee has given us valuable advice on this green policy which is closely related to the life of the people. I am also grateful to Members for the views they have presented in their speeches earlier.

With respect to levy in phase one, the existing PSB Levy Scheme began to come to operation on 7 July 2009. It is the first product eco-responsibility scheme introduced under the Product Eco-responsibility Ordinance. Under this Scheme, a levy of 50 cents is charged for each PSB and the aim is to encourage consumers to use less PSBs. The targets of regulation in phase one are mainly the large supermarket chains, convenience stores, medicare and cosmetics stores. The number of registered retail outlets stand at about 3 500.

Since the launch of the PSB Levy Scheme, and as many Members have said, the result has been satisfactory. According to the landfill surveys conducted by the Environmental Protection Department (EPD), the number of PSBs disposed by those retail outlets under regulation has fallen substantially from about 650 million in 2009 to about 150 million in 2012. The drop is significant. Meanwhile, the Scheme has served to foster a green habit among the citizens of bringing their own shopping bags and hence induced a change in culture. People are doing their best to practise waste reduction at source.

In order to further reduce the use of PSBs, we conducted a public consultation exercise on an extension of the Scheme in 2011. Findings of the consultation show that the public at large supports extending the Scheme to cover the entire retail sector. Based on public support, I introduced the Bill to this Council in May last year to propose a full-scale extension of the Scheme and hence increase the vigour of waste reduction at source.

The major proposals of the Bill include a full-scale extension of the scope of coverage of the Scheme. And for the purpose of further reducing the use of PSBs, the Bill proposes to fully extend the scope of coverage of this product eco-responsibility scheme to cover all retail outlets from the present number of about 3 500 large supermarket chains, convenience stores and medicare and cosmetics stores to the entire retail sector. Apart from stipulating the exemption criteria, every retail outlet in future will not be permitted to give away PSBs free of charge. When members of the public ask for PSBs, they must pay at least 50 cents for each PSB.

On simplifying the compliance system, and in particular on the retention of levy income by the shop operators, since the Bill will regulate tens of thousand retail SMEs, in order to reduce their compliance costs, the Bill proposes changing the approach adopted in phase one where the shop operators are to remit the levy income to the Government. This remittance approach is changed to that of the shop operators retaining the levy income. In other words, the operator will in future only need to collect the levy according to the law and there is no need to follow what are required in the compliance system in phase one, that is, registering the retail outlets with the Government, making returns and remitting the levy collected and keeping relevant records, and so on. The new mechanism will help reduce the compliance cost of the sector and create a level playing field. The Bills Committee generally supports simplifying the compliance system and agrees that the new arrangement is very important to the implementation of the PSB Levy Scheme among SMEs in the retail sector.

In terms of exemptions and exceptions, having regard to the daily needs of the public and the concern for food hygiene, the Bill also proposes specific exemption arrangements. When people buy food, drinks and medicines, or frozen and chilled food which are not properly packaged, they can use PSBs free of charge. During the course of scrutiny, the Members have discussed in depth the details of various exemption arrangements and have given valuable advice and suggestions. We agree that while the people should be encouraged to bring their own shopping bags whenever practicable, we should avoid causing any inconvenience to them. In the light of the views expressed by the Bills Committee and with respect to the use of PSBs for the purpose of food hygiene and for containing chilled and frozen food, we have clarified the criteria for exemption from mandatory charge of the levy. We will introduce an amendment for this purpose at the Committee stage.

As for the question of charging the levy at the retail level which is a concern of the Bills Committee, some members of the Bills Committee think that since most companies in the retail sector are SMEs, there are difficulties in operation in collecting the levy at the retail level. They suggested that consideration should be given to effecting a charge at the import level for plastic bags. I hope Members can understand that the aim of the Scheme is not to increase government revenue but to provide the financial incentive to induce change in consumer behaviour and develop a green habit among the citizens of bringing their own shopping bags. This has been proved effective in the implementation of phase one. Admittedly, administrative cost can be saved if a levy is imposed at the import level. But it will be hard to achieve our desired target. So in proposing the implementation of the extended Scheme, we have continued with the approach of imposing the levy at the retail level.

With respect to enforcement and monitoring, the Bills Committee agrees that the reporting system should be simplified and it is also concerned about the effectiveness of enforcement and monitoring. We think that for this extended Scheme to succeed, the key lies in reinforcing the habit among the people of bringing their own shopping bags. We will step up publicity and public education in this aspect and we think that the proposed fixed penalty system will also enhance the deterrent effect. The EPD will carry out enforcement action as in the past against non-compliance.

Some members are concerned that if the reporting system of the retailers is waived, will the Government and the public find it hard to know how effective the extended Scheme is. With respect to monitoring measures and effectiveness, we think that the landfill surveys conducted by the EPD each year would suffice in providing systematic information to serve as a basis for reference. During the scrutiny of the Bill, Members went to the refuse transfer stations to inspect the related work in situ. They agreed that the data so obtained could dovetail with the assessment work and provide practical reference. Also, we notice that the Census and Statistics Department have many methodologies regarding compilation of data collected from surveys, but they are not able to glean from them the actual figures on the PSBs used.

We have held discussions with the sector on the concerns expressed by members and gained the consent of the Hong Kong Retail Management Association (HKRMA) to compile data on a voluntary basis regarding the use of

PSBs by the sector. It will then send the information to the EPD for public release. This has responded to the demand of the Bills Committee on statistics.

On the commencement date, in order to speed up the implementation of the new measure, after obtaining the consent of the Bills Committee, we suggest that Committee stage amendments be proposed to complete the legislative work on the enforcement details in one go. This approach can let the Bills Committee scrutinize the related transitional arrangements and other enforcement details. Also, it can save the procedures and time for legislating on phase two of the Scheme. Hence the commencement date can be set earlier. This can allow us to launch the publicity sooner so that both the sector and the citizens can make preparations early. Later on when we are in Committee, I will elaborate on this.

As for the commencement date and the preparations, the Environment Bureau issued a blueprint for sustainable use of resources last May. The blueprint elaborates on our waste management policy on using less and wasting less resources and sets out a comprehensive strategy and action plan for the sustainable use of resources and waste treatment. Today the deliberations on the Bill have completed and its Second Reading is resumed. This shows our determination in taking action and rising to the challenges posed by waste in Hong Kong. With the consent of the Bills Committee, we suggest that the Bill shall come into effect on 1 April 2015. In other words, on 1 April next year, the extended Scheme shall come into force.

The PSB Levy Scheme is closely related to the daily life of the people and during the period from today to 1 April next year when the extended Scheme comes into force, we will organize various kinds of publicity and public education activities. This will enable the public at large and the retail sector, especially the SMEs in the retail sector, to get well-prepared for the extended Scheme. We will make recommendations to the retail sector and help the sector improve their mode of operation to comply with the requirements of law. In addition, the Bills Committee also mentioned that the exhibition organizers and inbound visitors should be promptly informed. We will take follow-up action on that.

The PSB Levy Scheme provides a good opportunity for the people to practise waste reduction at source. Both the public and the Bills Committee hope that the extended Scheme can be implemented soon so that it can drive

waste reduction further. I would also encourage the retail sector to use the levy income to support green efforts or other related public charities. In this regard, the HKRMA has positively responded and indicated that it will encourage its members to set aside the levy income to support green efforts or other charities. Here, I wish therefore to thank the retail sector, especially the HKRMA, for the great support they have shown to the Scheme. Moreover, I would also like to thank members from the business sector such as Mr Vincent FANG and Mr WONG Ting-kwong for relaying to us the concerns of the retail sector as well as their support for the Scheme.

President, I move the resumed Second Reading of the Bill and implore Members to pass the Bill and the Committee stage amendments to be proposed later so as to implement as early as possible the extended Scheme and promote an extension of waste reduction at source as well as a cultural change in this regard. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Product Eco-responsibility (Amendment) Bill 2013 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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

CLERK (in Cantonese): Product Eco-responsibility (Amendment) Bill 2013.

Council went into Committee.

Committee Stage

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

PRODUCT ECO-RESPONSIBILITY (AMENDMENT) BILL 2013

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Product Eco-responsibility (Amendment) Bill 2013.

CLERK (in Cantonese): Clauses 3, 5 to 17, 19 and 20.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

Mr Gary FAN rose to claim a division.

CHAIRMAN (in Cantonese): Mr Gary FAN has claimed a division. The division bell will ring for five minutes.

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

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

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Prof Joseph LEE, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Cyd HO, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Ms Claudia MO, Mr NG Leung-sing, Mr Steven HO, Mr WU Chi-wai, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Dr Kenneth CHAN, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Miss Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

Mr LEUNG Kwok-hung and Mr Gary FAN voted against the motion.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that there were 54 Members present, 51 were in favour of the motion and two against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Clauses 1, 2, 4 and 8.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move that the clauses read out just now be amended, as set out in the paper circularized to Members.

The amendment to clause 1 seeks to specify that the commencement date shall be 1 April 2015. In other words, the extended Scheme is to be implemented formally on 1 April 2015. As I have mentioned in my speech during the resumed Second Reading debate, the PSB Levy Scheme is closely related to the daily life of the people and by specifying the commencement date, a clear message can be sent to the public and the sectors and a definite goal set. We will launch publicity and public education activities according to this commencement date so that the public at large and the retail sector can get prepared for this extended Scheme. By setting the commencement date at this stage, we can introduce amendments to provide for the savings and transitional arrangements. I will elaborate on these when we propose these new provisions.

The amendment to clause 18 seeks to specify the criteria for exemption from the mandatory levy. The Bills Committee has discussed the reasonable scope of exemption after the full-scale implementation of the PSB levy in the context of a number of representative examples. We agree that the exemption arrangements should achieve their specific goal and reduce the unnecessary use of PSBs and that they should be clear and easily comprehensible and compatible with the daily life of the people. After discussions, we proposed that an amendment be moved to the effect that a foodstuff item, drink or medicine that is in a chilled or frozen state will not be subject to the mandatory levy when plastic bags are used. And when a foodstuff item, drink or medicine is not contained in airtight packaging, it will also not be subject to the mandatory levy when plastic bags are used.

The remaining amendments are technical in nature. The Bills Committee has scrutinized all these amendments and expressed support for them. I implore Members to support the passage of these amendments.

Thank you, Chairman.

Proposed amendments

Clause 1 (See Annex I)

Clause 2 (See Annex I)

Clause 4 (See Annex I)

Clause 18 (See Annex I)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for the Environment be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 2, 4 and 18 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 2, 4 and 18 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New heading before clause 1	Part 1 Preliminary
New heading before clause 2	Part 2 Amendments to Product Eco-responsibility Ordinance
New clause 16A	Part 3, Division 6 added
New clause 21	Schedule 5 added
New heading to new Part before clause 22	Part 3 Amendments to Product Eco-Responsibility (Plastic Shopping Bags) Regulation
New clause 22	Product Eco-responsibility (Plastic Shopping Bags) Regulation amended
New clause 23	Section 2 amended (interpretation)
New clause 24	Parts 2 to 5 repealed
New clause 25	Part 6 and Schedule added.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move the Second Reading of new headings before clauses 1 and 2, clauses 16A and 21, heading to new Part before clause 22, and clauses 22 to 25, as set out in the paper circularized to Members.

The main purpose of these amendments is to deal with provisions proposed at the second stage of the enactment, including: the amendments to the Product Eco-responsibility (Plastic Shopping Bags) Regulation, the transitional arrangement after the commencement date and the relevant savings. We suggest that these changes be dealt with by the amendments. This will ensure a smooth conduct of the legislative exercise in one go so that a clear commencement date,

that is, 1 April 2015, can be set. This will enable us to use the date as the basis for launching our publicity and educational efforts, hence expediting the implementation of the Scheme.

The Bills Committee has scrutinized each of these amendments in detail and expressed support for them. I implore Members to support the passage of these amendments.

Thank you, Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new headings before clauses 1 and 2, clauses 16A and 21, heading to new Part before clause 22, and clauses 22 to 25 be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New headings before clauses 1 and 2, new clauses 16A and 21, new heading to new Part before clause 22, and new clauses 22 to 25.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move that new headings before clauses 1 and 2, clauses 16A and 21, heading to new Part before clause 22, and clauses 22 to 25 be added to the Bill.

Proposed additions

New heading before clause 1 (See Annex I)

New heading before clause 2 (See Annex I)

New clause 16A (See Annex I)

New clause 21 (See Annex I)

New heading to new Part before clause 22 (See Annex I)

New clause 22 (See Annex I)

New clause 23 (See Annex I)

New clause 24 (See Annex I)

New clause 25 (See Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: that new headings before clauses 1 and 2, clauses 16A and 21, heading to new Part before clause 22, and clauses 22 to 25 be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

PRODUCT ECO-RESPONSIBILITY (AMENDMENT) BILL 2013

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the

Product Eco-Responsibility (Amendment) Bill 2013

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Product Eco-Responsibility (Amendment) Bill 2013 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Product Eco-Responsibility (Amendment) Bill 2013.

MOTIONS

PRESIDENT (in Cantonese): Motion. The proposed resolution moved under the Interpretation and General Clauses Ordinance to amend the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014.

Members who wish to speak on the motion will please press the "Request to speak" button.

PRESIDENT (in Cantonese): As the Secretary for Transport and Housing has yet to arrive, I now suspend the meeting.

4.38 pm

Meeting suspended.

4.42 pm

Council then resumed.

PRESIDENT (in Cantonese): I now call upon the Secretary for Transport and Housing to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, I move that the motion as set out on the Agenda regarding an amendment to the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014 (the Amendment Regulation) be passed.

The Amendment Regulation was published in the Gazette on 17 January 2014 to require goods vehicles first registered on or after 1 October 2014 to be equipped with reversing video devices, with a view to enhancing safety when goods vehicles are reversing.

I would like to express my gratitude for the scrutiny of the Amendment Regulation done and valuable advice tendered by the Subcommittee chaired by the Mr CHAN Kam-lam. I am glad to learn that the Subcommittee supported the Amendment Regulation after deliberations. At the Subcommittee meeting, a member asked if it would be more appropriate to replace "揭發" with "發現" or "發覺" in the Chinese rendition of the Amendment Regulation for the word "detected" in regulation 39A(6) under section 4 in the English text. The Department of Justice accepted the suggestion of the Subcommittee after consideration. The amendment I propose today mainly serves to improve the drafting of the Chinese text by repealing "揭發" and substituting it with "發覺" in the proposed regulation 39A(6)(a) and (b) under section 4 of the Amendment Regulation.

With these remarks, President, I move that the motion as set out under my name on the Agenda regarding the amendment to the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014 be passed.

The Secretary for Transport and Housing moved the following motion:

"RESOLVED that the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014, published in the Gazette as Legal Notice No. 4 of 2014 and laid on the table of the Legislative Council on 22 January 2014, be amended as set out in the Schedule.

Schedule**Amendments to Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014****1. Section 4 amended (regulation 39A added)**

Section 4, Chinese text, new regulation 39A(6)(a) and (b) —

Repeal

"揭發"

Substitute

"發覺".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Transport and Housing be passed.

MR CHAN KAM-LAM (in Cantonese): President, I now make a report in my capacity as Chairman of the Subcommittee on Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014.

The Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014 (the Amendment Regulation) seeks to require a goods vehicle first registered on or after 1 October 2014 to be equipped with a reversing video device (RVD), with a view to enhancing safety when goods vehicles are reversing.

The Subcommittee has held a meeting to discuss the Amendment Regulation with the authorities.

The Subcommittee notes that regulation 39A(3) provides that an RVD must be maintained in good working order. Regulation 39A(4)(b) also provides that the view of an RVD so fitted to the goods vehicle must be clear to the driver in the driving position, whether in the daytime or at night, except when the visibility is reduced by weather conditions. The Subcommittee has examined whether an objective standard should be set out in the Amendment Regulation to quantify the concept of visibility.

The Administration has explained to the Subcommittee that the capability of the camera unit of an RVD to provide a clear view may unavoidably be limited by weather conditions and therefore an exception is expressly provided for in the regulation to ensure that an owner or driver of a goods vehicle will not contravene the regulation and commit a criminal offence simply due to an external factor which is beyond his or her control. The Administration indicates that it is not possible for the concept of visibility to be quantified, and the Court will decide each case on its own merits having regard to the evidence and circumstances of the case.

The Subcommittee understands that the Administration does not require the retrofitting of existing goods vehicles with RVDs because there are technical difficulties in doing so. Moreover, vehicle suppliers and coach builders in general are unwilling to provide warranty and maintenance for after-market installation of RVDs. Therefore, it is inappropriate to mandate the installation of RVDs on existing goods vehicles.

The Subcommittee has examined the readiness of the trade to comply with the Amendment Regulation. Some members are of the view that the effective date of the Amendment Regulation should be advanced from 1 October 2014 to an earlier date, so as to enhance road safety at the earliest opportunity.

The Administration explained that since the mandatory installation of RVDs will be applicable to all good vehicles which comprise of many different models and types, it will be appropriate to give six to seven months after completion of the legislative procedures to all the relevant stakeholders to get prepared and clear the current stock.

The Subcommittee notes that when the Administration carried out consultation with the trucking industry associations and goods vehicle driver groups, the trade had expressed concerns over the mandatory installation of RVDs. The Administration subsequently explained that a defence had been included for contravention of the requirement that the RVD be maintained in good working order. The proposal is supported by the trade.

Regarding the defence provision, the Subcommittee notes that regulation 39A(6)(a) and (b) prescribes that it is a defence for a contravention of the relevant regulation if a person can prove that the defect of the RVD occurred in the course of the journey during which the contravention was detected, or at

the time when the contravention was detected, steps had already been taken to have the defect remedied with all reasonable expedition. The Subcommittee considered that the underlying meaning of the term "揭發" in the Chinese text of the aforesaid regulation implies that something has been concealed and then revealed, hence not an appropriate rendition of the word "detected" in the English text. The Subcommittee suggested amending the term "揭發" to "發現" or "發覺". The Administration has agreed to make an amendment to amend the term "揭發" to "發覺". It will propose a relevant motion.

In general, the Subcommittee supports the Administration's proposal and the relevant amendments.

Thank you, President.

MR WU CHI-WAI (in Cantonese): President, on behalf of the Democratic Party, I speak in support of the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014. The current amendment is very simple, namely to require goods vehicles first registered on or after 1 October 2014 to be equipped with an RVD, with a view to enhancing safety when goods vehicles are reversing. We do not object to the requirement, but like many other colleagues participating in the deliberations, we would also like to further ask why mandatory installation is applied to new vehicles only, but not to existing fleets. Do we assume that reversing blind spots and potential risks are found on new vehicles only, but not on existing ones?

At the Subcommittee meeting, I heard the Government's representatives raise several main points to explain that retrofitting old vehicles with RVDs would pose problems. First, they suggested that the reliability would be questionable if RVDs were to be retrofitted to existing fleets. For example, good vehicles are usually subject to much harsher working conditions in construction sites or on roads due to high vibration and shock loads. Second, exposure may lead to frequent failure of the RVD. The Government's representatives added that even if vehicles were fitted with the device, accidents would still occur, but they encouraged voluntary retrofitting of the device to existing goods vehicles. As for the second point, I think it is logically untenable. Certainly, we understand that installation of the device does not justify ignorance of our driving attitude, because no matter what device is installed, its effectiveness still depends most importantly on the driver's attitude. Therefore, if such devices are really not stable enough or not effective, why does

the Government encourage drivers to voluntarily install them? Does the Government also consider it somehow better to install them?

In my hand is a guide issued by the Transport Department (TD) in 2009 for the installation of devices to assist reversing of goods vehicles, from which I quote, "With the availability of wide-angle camera of horizontal vision 170° or more, installation of RVD has become feasible for vehicles which provide a camera mounting point at 1 m or higher above ground. That includes most heavy, medium and light goods vehicle types" and "If the camera can be installed on the vehicle rearmost at a height of 1.0 m or higher above ground, CCTV with suitable wide-angle camera would likely be available in the market and be able to achieve the above performance requirements with no major difficulties". As regards recommended requirements, I quote, "The CCTV camera should be installed securely on the vehicle rear such that orientation of the camera will not be affected under normal driving conditions" and "The camera should be water and dust proofing".

President, should the TD consider that RVDs retrofitted on existing goods vehicles are prone to damage and ineffective, I do not think that it would have prepared such a complete guide. In fact, even vehicles for construction sites can be fitted with RVDs. According to past information, the Labour Department, the Occupational Safety and Health Council and the Hong Kong Construction Association jointly launched the Reversing Video Device Sponsorship Scheme for Heavy Vehicles on Construction Sites in 2008, aiming to assist small and medium enterprises and self-employed persons in purchasing and installing such devices in order to prevent accidents associated with reversing vehicles. If the device is useless, does it mean that this scheme is giving away money for others to squander? Even if I assume that the devices installed on some specific types of vehicles are prone to malfunctioning due to operational problems, the Government should, as a demonstration of the proper attitude towards promotion of road safety, examine individual vehicle types in detail before granting exemption to them, instead of prescribing in the legislation exemption from installation for all the existing vehicles.

Having said all this, I actually mean that the argument of retrofitting existing goods vehicles with the device being impossible due to technical problems does not hold water. On the contrary, it may be more convincing to infer that drivers will incur additional costs in retrofitting the device, thus bringing the Government under pressure from the trade.

However, as I said during the scrutiny, this device is now really inexpensive as a result of the significant drop in cost. Information shows that it may already be possible to install a qualified device for \$2,000 to \$3,000. A little spending will enable better protection for the drivers themselves and road users. Why is it impossible?

Information provided by the Government shows that, on average, there are over 100 accidents involving reversing vehicles per year; therefore the safety of reversing vehicles is by no means a matter of individual accidents. This phenomenon or situation calls for serious attention from society. Of course, as to the question of whether mandatory installation should be imposed on all the existing vehicles, including retiring vehicles, I think it is open to discussion, but by no means should only new goods vehicles be regulated as provided for in the Amendment Regulation. I hope the Government can suggest a timetable for the regulation of existing goods vehicles as soon as possible. Even if no regulation is intended, it should propose at least a method to encourage the installation of RVDs on existing goods vehicles. We all know that there are in fact many such goods vehicles running on the roads.

Undoubtedly, I understand the Government's thinking that a scheme for replacing diesel vehicles will soon be introduced in order to significantly reduce the number of goods vehicles running on the roads, but I still find it worthwhile for the Government to ponder some ways again to encourage retrofitting RVDs on existing goods vehicles under certain mechanisms. As pointed out in the Guide published by the authorities, installation of a reversing device is always helpful to the driver and can prevent motor vehicle accidents that cause serious injuries.

In fact, the reason why this matter has been put on the agenda is that passers-by were killed on several occasions after being hit by a reversing goods vehicle. I think that, on this matter, the Government seems to be making too great a concession to the existing vehicles. Has the Government thought clearly, under this scheme for installation of reversing devices, what methods can drive the owners of existing goods vehicles to more proactively install the device?

I so submit, and hope that the Government can provide a timetable to let us know how best the owners of existing goods vehicles can be encouraged to install the reversing device. Thank you, President.

MR WONG KWOK-HING (in Cantonese): President, I speak in support of the Road Traffic (Public Service Vehicles) (Amendment) Regulation 2013.

President, I think this legislative amendment is like a belated spring. However, it is better late than never. My criticism of this legislative amendment as a belated spring does not mean to satirize or ridicule Secretary Prof Anthony CHEUNG for being late for the meeting, but instead to say that this piece of legislation is late in coming to the Legislative Council. Why did I criticize this legislative amendment as being late in coming? First, while relevant discussions on the policy began as early as 2007, it is not until 2014, eight years later, that this Regulation has belatedly entered the process of legislative amendment. Therefore, I think this is a belated legislative amendment proposal.

The second reason why I consider it belated is that, according to figures provided by the Government, as many as 200 traffic accidents were caused by reversing goods vehicles in each of the eight years before 2007, namely from 1999 to 2006. In fact, this is a rather large number. Frankly, these were cases involving life and death. Human life is most precious. How can we allow 200 traffic accidents caused by reversing vehicles to occur every year but keep delaying the legislative amendment?

President, the third reason why I described the legislation as belated is that the authorities provided us with the requested information in the form of a supplementary paper only after I had made follow-up enquiries in the Subcommittee about the annual numbers of traffic accidents caused by reversing goods vehicles since 2006. Information in the supplementary paper submitted by the Government indicates that there were annually more than 100 traffic accidents involving reversing goods vehicles from the year 2007 to 2013, a situation that warrants our attention and concern. In other words, this happens every month, and we must definitely not take it lightly.

President, the legislative amendment now proposed by the Government is likewise incomplete. I think the legislative amendment now proposed by Secretary Prof Anthony CHEUNG is one that in fact aims to complete a leftover job. As the last-term Government was too late in proposing it, it is the Secretary's turn to complete the unfinished job. However, the legislative amendment proposed by the current-term Government to complete the leftover job is literally "half-baked". Why did I criticize it as "half-baked"? Because the current amendment regulates only vehicles newly registered after

commencement of the legislation. Existing goods vehicles are excluded and do not need to be retrofitted with reversing devices. According to the Government, the reason is that the technology is not yet mature. Meanwhile, the existing 80 000 old diesel vehicles will be phased out. However, the 80 000-odd old diesel vehicles running on the roads pose potential hazards because they are not fitted with RVDs. Moreover, Euro IV and Euro V vehicles are not fitted with RVDs either. Therefore, such risks continue to exist on urban roads, like time bombs.

The authorities said at the meeting that the legislation, if enacted, would be reviewed in one to two years to assess the maturity of RVDs, and then followed up. That said, in fact the TD conducted a relevant study with the Hong Kong Productivity Council as early as in 2012. However, why do we not leverage on this legislative amendment to make proper improvements and formulate relevant requirements in tandem? Therefore, I deeply regret such a "half-baked" amendment which is insufficient in my view.

President, more than a hundred fatal accidents caused by reversing vehicles will happen every year. This situation should definitely not be taken lightly. We should not turn a blind eye to it either. The enactment of the legislation today will not help resolve the road safety issues currently faced by the public. Therefore, I suggest that the authorities take proactive remedial measures after the enactment. Here I propose six recommendations in the hope that the Government and the Secretary will actively consider them and follow them up after the enactment.

First, I hope that the authorities will definitely step up publicity and education after the enactment of this law. They should not enjoy peace of mind, thinking that all goes well once the legislation is enacted. Do not make the public think that, upon enactment of the law today, all the goods vehicles running on the roads will be equipped with such a device starting from 1 October this year, but only to find that it is the case only for newly arrived and newly registered vehicles, not for others. Publicity and education is essential to alerting both the public and the drivers to this.

Second, I hope that the Transport and Housing Bureau and the TD will further revise the guidelines to strengthen their effectiveness, so as to urge drivers to improve their driving attitude, especially with respect to the reversing operation. The authorities should also enhance manpower in other areas, putting

public safety first. In the event of a vehicle reversing accident causing casualties, in fact not just the operator will bear damages as a result, but members of the public will also suffer irremediable damages.

Third, I hope that the Transport and Housing Bureau and the TD will seriously implement improvement measures at traffic black spots where vehicle reversing accidents occur frequently. Although I noticed that the authorities had introduced some measures to report black spots, particularly regarding some steep streets on Hong Kong Island, but how can members of the public and drivers be further alerted to such black spots and how can the improvement measures be made effective? I believe the Administration must still follow up.

Fourth, I hope that the Administration can select some products, say some goods vehicles or a certain type of goods vehicle, as soon as possible to conduct systematic operational tests, and spend some time to compile the test report, so that members of the trade can purchase these products on the basis of the Government-led tests for use on goods vehicles in service, instead of waiting for the Productivity Council's never-ending study without knowing when the outcome is available. Therefore, I think the Administration still has room for improvement in this respect.

The fifth point is also a reflection of the trade's request. I hope that the Administration can draw up uniform standard specifications to regulate RVDs. From various types of video devices currently available in the market, the Administration can select those in compliance with the uniform specifications required by legislation and the authorities, for reference by members of the trade in their selection of RVDs.

The last point, namely the sixth, is that I hope the Administration can provide subsidies and incentives, because if the Government can provide subsidies, it will actually drive the trade to proactively adopt RVDs to help enhance road safety.

I hope that the Government will face up to, follow up and respond to these six recommendations proposed by me in relation to the "half-baked" amendment.

Thank you, President.

MS CYD HO (in Cantonese): President, I support this Amendment Regulation. The focus of my speech is in fact on some drafting problems in the Chinese text of the Amendment Regulation. That is to say, as the Secretary said earlier, the term "detected" in the English text of regulation 39A (6) was originally translated as "揭發" and later revised to "發現" after we had raised the query.

In this regard, I would really like to question the Bureau and the Department of Justice (DoJ) what has actually gone wrong with the officials. Is it their Chinese proficiency or their mentality? The reason for my question is that the term "detected" is neutral and the matter being referred to is known to all. English is very intricate. There are many sentences in passive voice from which the subject is absent. This kind of sentence structure is best suited for shirking responsibilities. Therefore, English is a very useful language in diplomacy, because once the passive voice is used, no one has to assume responsibility. However, the meaning of the term "揭發" indicates that someone, prompted by evil and malign motives, has intentionally or deliberately concealed something, but "發現" is a neutral term indicating that something good, something bad or new knowledge is found.

The use of the term "揭發" actually implies passing a verdict before trial. Suppose we say that when a driver was driving, mechanical parts of his vehicle were "揭發" to be malfunctioning. Then this argument implies an accusation of the driver deliberately concealing something. However, the driver might not know what had happened. He might know it until the vehicle was stopped. It might also be possible that the driver himself had noticed it but had not yet sent the vehicle for repairs as he was driving on that very section of the journey. So, I do not know whether the officials are unable to distinguish between the meanings of "揭發" and "發現" or, with the mentality of high-ranking officials, they think that the driver was intentionally and deliberately concealing the truth, and therefore an accusation of the driver was already implied in the drafting of the legislation.

Having asked the relevant departments about the law drafting process, we learnt that, as the first step, the Policy Bureau provides the DoJ with the policy objectives to the legislative draftsmen of the DoJ to work on, and then the draft text is submitted to their superior for vetting. After that, the text is returned to the Policy Bureau for checking consistency with the intention of its policy objectives. Then it is returned to the DoJ again for arrangement for gazettal.

There are totally five steps in this process. The officials in charge of each step are all well paid and in high ranks. Yet their work is so slipshod.

President, these problems in law drafting are not unprecedented. That is why every time I saw one, I would raise it for discussion. There were typing mistakes in Chinese texts. There were also spelling mistakes in English texts. The latest case is that of the Marriage (Amendment) Bill 2014 tabled before this Council for First Reading today. This Bill originally read as 《2014年婚姻(修訂)草案條例》 in Chinese when published in Gazette No. 9. This time it was not a typing mistake, but two groups of words were switched by mistake. It should have been "條例草案" but was written as "草案條例". As a result, a correction was made two weeks later in Gazette No.11. I believe most probably it is because our Legal Adviser found these mistakes and then tendered the authorities a reminder.

Unfortunately, despite going through so many steps and checks, the staff for this job, who earn a monthly salary of more than \$100,000, did not respect their job at all. In the total absence of professionalism, they have not seriously and properly done such an important legislative task. If we can see that high-ranking officials in Hong Kong are so sloppy and decadent even in law drafting work, which requires professionalism and serious handling, how can we encourage young people to work in a serious, cautious and responsible manner? Therefore, President, I must make it clear that every time I see such mistakes in law drafting, in particular such careless and sloppy mistakes, I will not spare the trouble of raising them here for the record and bluntly urging for improvement.

Thank you, President.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, once again, I thank the Subcommittee for scrutinizing this Regulation and making suggestions on various issues in this course. First of all, I would like to respond to Ms Cyd HO's remarks about the term "揭發" originally used in the Chinese text of the Regulation to express the meaning of the word "detected" in the English text. I fully agree with Ms HO's comment that the word "detected" in the English text is neutral *per se* and does not allude to the driver concealing anything. However, during the drafting process, as the word "detected" in other legislation may carry the meaning of "揭發" under different circumstances, the efforts made by the Bureau and the DoJ in examining the legislation drafted by the latter, as well as the Chinese version, might indeed fall short of depth, as Ms Cyd HO said earlier. On that note, I admit on behalf of the Government that we could have examined the matter in a better manner.

Meanwhile, both Mr WU Chi-wai and Mr WONG Kwok-hing have pointed out or questioned just now why this Regulation proposed by us does not mandate the installation of RVDs on existing registered vehicles, as in the case of newly registered goods vehicles. I would like to briefly explain the relevant background here.

Our proposal on mandatory installation of RVDs is definitely premised on the consideration of road safety and safety of the vehicles concerned. Indeed, even one case of traffic accident is too many, but accidents caused by reversing vehicles actually occurred in recent years. Insofar as goods vehicles are concerned, since they are used for carrying goods, they may sometimes pose a slightly greater danger than other vehicles, such as private cars, when reversing. Nevertheless, when we consulted the trade, they did raise some concerns, including their view that vehicle reversing accidents cannot be completely resolved by the mere installation of RVDs. As Mr WONG Kwok-hing mentioned earlier, the driving attitude and the effectiveness of our publicity and education efforts, among others, have a part to play too. Another concern of theirs is whether the effectiveness, reliability and durability of these devices, even if installed, are proven, and who will be held accountable if the device malfunctions in the course of a journey. A further concern raised by them is that there is no requirement of mandatory installation of RVDs in overseas regions. We can also confirm this point. In many other countries, such as the United Kingdom and the United States, there are actually no rigid rules on this. Therefore, it can be said that Hong Kong is at the forefront in this regard, and it is also a matter of course that Hong Kong outrun others for the sake of road safety.

We have indeed made a choice in weighing voluntary and mandatory installation of such devices on existing vehicles. Firstly, some requirements of vehicle installations in the past might entail different arrangements between existing vehicles and newly registered vehicles. For example, regarding the installation of seat belts in public light buses, our legislative amendment required enforcement of the new requirements and arrangements only on newly registered

vehicles, but there were no mandatory requirement on existing vehicles. What are the differences between voluntary and mandatory installation. On mandatory installation, particularly for goods vehicles as I mentioned earlier, we have explained to the Subcommittee that following the stipulation of the requirement that RVDs be installed on new goods vehicles, vehicle suppliers will select and install such devices in advance, and will reserve space for installing such devices when building vehicle bodies. This may achieve better results in terms of reliability and maintenance, and so on. However, as existing vehicles involve after-market installation, vehicle suppliers in general do not provide assistance in this regard, and since the vehicle body has been completely assembled, the reliability of any device retrofitted may not be covered by full warranty. Therefore, if the installation of such devices on existing vehicles is mandatory, both vehicle owners and drivers may have more apprehensions. Nevertheless, we still encourage them to voluntarily install such devices as far as possible for the sake of safety when reversing.

In fact, the percentage of goods vehicles voluntarily fitted with RVDs has increased from 6% to 20% over the past six years. So, this trend also shows that they are willing to do so. However, I must emphasize that even with RVDs installed, if the driving attitude is poor or awareness of road safety is insufficient, accidents remain unavoidable. Therefore, we still hope that motorists, including goods vehicle drivers, will pay close attention to safety when driving.

In formulating the current Amendment Regulation, we have considered the trade concerns. In response, we have introduced a defence provision in relation to the issue of responsibility in the case of device failure.

President, Mr WONG Kwok-hing put forward six recommendations earlier, hoping for follow-up by the Government. We will definitely follow up on those recommendations. In particular, we will follow up by taking measures against some black spots, providing the trade with more information on product specifications, or developing more comprehensive guidelines on reversing of vehicles. However, as far as the issue of subsidizing the installation of RVDs on existing goods vehicles is concerned, according to the established stance and policy of the Government on equipment for vehicles, basic vehicle installations mandated by licensing conditions or legislation should be acquired and installed by the owner. As Mr WU Chi-wai pointed out earlier, the current prices of the products concerned range from around \$2,000 to \$5,000, as the cost is not enormous. Therefore, we think that policy-wise, there are no grounds to require that the cost of installation of such devices be met by public coffers. Moreover, our current proposal imposes mandatory installation on newly registered goods vehicles while adopting the attitude of encouraging voluntary installation on existing vehicles.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Transport and Housing be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution moved under the Public Finance Ordinance.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Financial Services and the Treasury to speak and move the motion.

PROPOSED RESOLUTION UNDER THE PUBLIC FINANCE ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

The purpose of this motion is to seek funds on account to enable the Government to carry on its services between the start of the financial year on 1 April 2014 and the time when the Appropriation Ordinance 2014 comes into operation. This is a long-established and essential procedure. The specific arrangements also follow those of recent years.

According to the Budget timetable this year, the Legislative Council will at its meeting on 16 April 2014 resume the Second Reading debate and then proceed to the Third Reading of the Appropriation Bill 2014. As such, the Appropriation Ordinance 2014 would not come into operation on or before 31 March 2014. To ensure that when the new financial year starts on 1 April 2014, the Government will not need to halt public services, including services closely related to people's

livelihood such as education, social welfare, healthcare and security due to the lack of funds, we need to propose this motion.

The funds on account sought under each subhead in accordance with the fourth paragraph of the resolution have been determined with reference to the relevant provisions in the 2014-2015 Estimates of Expenditure. The initial amount of funds on account under each head which has incorporated requirements at subhead level is provided in the form of a footnote to this speech. The aggregate amount of funds on account is \$78,677,470,000 before the Appropriation Ordinance 2014 comes into operation. This represents around 23% of the total appropriation of \$335,848,320,000 under the Appropriation Bill 2014. The proposed funds on account should be able to cope with only around two months of the Government's operational requirements.

Subject to the above aggregate amount not being exceeded, the resolution enables the Financial Secretary to vary the funds on account in respect of any subhead, but these variations must not exceed the provision for that subhead in the 2014-2015 Estimates of Expenditure. To enhance transparency and in line with the established practice, we will report to the Finance Committee of this Council if the Financial Secretary has exercised this authority to meet necessary requirements.

In order to ensure that Government has the necessary resources to continue providing services to the public, I urge Members to support the motion today.

The vote on account will be subsumed upon the enactment and commencement of the Appropriation Ordinance 2014.

President, I beg to move.

Footnote

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates</i>	<i>Initial amount of funds on account</i>
	<i>\$'000</i>	<i>\$'000</i>
21 Chief Executive's Office	99,112	19,823
22 Agriculture, Fisheries and Conservation Department	1,395,778	525,847
25 Architectural Services Department	1,806,701	361,710
24 Audit Commission.....	144,428	28,886
23 Auxiliary Medical Service	80,590	16,118
82 Buildings Department	1,175,901	235,421
26 Census and Statistics Department	615,131	123,027

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates</i>	<i>Initial amount of funds on account</i>
	<i>\$'000</i>	<i>\$'000</i>
27 Civil Aid Service	95,687	20,251
28 Civil Aviation Department.....	862,098	172,420
33 Civil Engineering and Development Department.....	2,120,406	429,812
30 Correctional Services Department.....	3,366,910	706,112
31 Customs and Excise Department	3,056,587	647,567
37 Department of Health.....	6,093,178	1,328,684
92 Department of Justice	1,795,198	361,736
39 Drainage Services Department	2,182,147	454,731
42 Electrical and Mechanical Services Department.....	512,903	173,301
44 Environmental Protection Department	6,848,374	4,271,010
45 Fire Services Department.....	5,007,243	1,282,947
49 Food and Environmental Hygiene Department.....	5,667,222	1,207,986
46 General Expenses of the Civil Service	3,170,445	779,391
166 Government Flying Service.....	367,280	184,408
48 Government Laboratory.....	435,759	151,831
59 Government Logistics Department.....	537,179	225,015
51 Government Property Agency	1,873,206	388,210
143 Government Secretariat: Civil Service Bureau	521,385	104,277
152 Government Secretariat: Commerce and Economic Development Bureau (Commerce, Industry and Tourism Branch)	1,644,960	439,562
55 Government Secretariat: Commerce and Economic Development Bureau (Communications and Technology Branch)	314,910	206,850
144 Government Secretariat: Constitutional and Mainland Affairs Bureau	582,912	127,719
138 Government Secretariat: Development Bureau (Planning and Lands Branch).....	492,049	351,850
159 Government Secretariat: Development Bureau (Works Branch).....	448,025	164,337
156 Government Secretariat: Education Bureau...	47,369,464	10,207,542
137 Government Secretariat: Environment Bureau	80,408	20,082

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates</i>	<i>Initial amount of funds on account</i>
	\$'000	\$'000
148 Government Secretariat: Financial Services and the Treasury Bureau (Financial Services Branch)	312,895	130,170
147 Government Secretariat: Financial Services and the Treasury Bureau (The Treasury Branch)	1,883,242	1,717,369
139 Government Secretariat: Food and Health Bureau (Food Branch).....	76,150	15,230
140 Government Secretariat: Food and Health Bureau (Health Branch)	48,507,848	10,432,618
53 Government Secretariat: Home Affairs Bureau	1,546,324	340,642
155 Government Secretariat: Innovation and Technology Commission	587,163	186,466
141 Government Secretariat: Labour and Welfare Bureau	753,727	211,747
47 Government Secretariat: Office of the Government Chief Information Officer	690,227	163,284
142 Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary	833,832	175,920
96 Government Secretariat: Overseas Economic and Trade Offices.....	333,479	66,696
151 Government Secretariat: Security Bureau.....	325,154	65,031
158 Government Secretariat: Transport and Housing Bureau (Transport Branch).....	200,136	54,810
60 Highways Department.....	2,549,814	513,182
63 Home Affairs Department.....	2,183,530	476,454
168 Hong Kong Observatory	259,781	51,957
122 Hong Kong Police Force	15,515,188	3,289,987
62 Housing Department	261,054	52,211
70 Immigration Department.....	3,694,051	747,224
72 Independent Commission Against Corruption	937,127	187,426
121 Independent Police Complaints Council.....	55,988	12,448
74 Information Services Department	408,758	81,752
76 Inland Revenue Department.....	1,389,503	277,901
78 Intellectual Property Department	133,516	26,704
79 Invest Hong Kong	114,967	22,994

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
174 Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service.....	29,704	5,941
80 Judiciary	1,356,642	273,377
90 Labour Department	1,912,412	707,831
91 Lands Department.....	2,162,090	434,398
94 Legal Aid Department	833,151	166,631
112 Legislative Council Commission.....	717,691	153,795
95 Leisure and Cultural Services Department ...	6,889,307	1,466,905
100 Marine Department	1,156,473	280,213
106 Miscellaneous Services.....	11,915,636	1,838,786
180 Office for Film, Newspaper and Article Administration	43,790	8,758
114 Office of The Ombudsman	102,816	20,644
116 Official Receiver's Office	147,624	29,573
120 Pensions	27,317,100	5,470,824
118 Planning Department	607,936	133,637
136 Public Service Commission Secretariat.....	20,782	6,235
160 Radio Television Hong Kong	784,477	187,776
162 Rating and Valuation Department	479,332	95,867
163 Registration and Electoral Office	268,299	53,660
169 Secretariat, Commissioner on Interception of Communications and Surveillance.....	18,404	3,681
170 Social Welfare Department.....	55,909,483	15,211,325
173 Student Financial Assistance Agency.....	5,380,592	1,249,378
181 Trade and Industry Department	828,458	582,038
186 Transport Department	2,063,030	480,981
188 Treasury	369,410	73,882
190 University Grants Committee	15,601,731	3,277,369
194 Water Supplies Department	7,095,920	1,426,279
	<u>328,329,320</u>	<u>78,658,470</u>
184 Transfers to Funds	7,519,000	19,000
	<u>335,848,320</u>	<u>78,677,470</u>
	=====	=====
Total.....	335,848,320	78,677,470

Note:

- * The initial amount of funds on account under Head 106 includes \$1 billion under Subhead 789 Additional commitments for contingency.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVED that —

1. Authority is hereby given for a sum not exceeding \$78,677,470,000 to be charged on the general revenue for expenditure on the services of the Government in respect of the financial year commencing on 1 April 2014.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure as shown in the Estimates of Expenditure 2014-15 laid before the Legislative Council on 26 February 2014 or, if the Estimates are changed under the provisions of the Public Finance Ordinance (Cap. 2) as applied by section 7(2) of that Ordinance, as shown in the Estimates as so changed.
3. Expenditure in respect of any head of expenditure must not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of the subheads in that head of expenditure.
4. Expenditure in respect of each subhead in a head of expenditure must not exceed —
 - (a) for an Operating Account Recurrent subhead of expenditure, an amount equivalent to —
 - (i) except if the subhead is listed in Schedule 1 to this Resolution, 20% of the provision shown in the Estimates in respect of that subhead;
 - (ii) if the subhead is listed in Schedule 1 to this Resolution, the percentage of the provision shown in the Estimates in respect of that subhead that is specified in that Schedule in relation to that subhead; and
 - (b) for an Operating Account Non-Recurrent subhead of expenditure or a Capital Account subhead of expenditure, an amount equivalent to —
 - (i) except if the subhead is listed in Schedule 2 to this Resolution, 100% of the provision shown in the Estimates in respect of that subhead;
 - (ii) if the subhead is listed in Schedule 2 to this Resolution, the amount that is specified in that Schedule in relation to that subhead,

or such other amount, not exceeding an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead, as may in any case be approved by the Financial Secretary.

Head of Expenditure		Schedule 1		[para. 4(a)]
		Subhead		Percentage of provision shown in Estimates
46	General Expenses of the Civil Service	013	Personal allowances	40
59	Government Logistics	225	Traffic Accident Victims Assistance Scheme — levies	100
90	Labour Department	280	Contribution to the Occupational Safety and Health Council	30
		295	Contribution to the Occupational Deafness Compensation Board	30
106	Miscellaneous Services	284	Compensation	35
120	Pensions	026	Employees' compensation, injury, incapacity and death related payments and expenses	35
136	Public Service Commission Secretariat	000	Operational expenses	30
152	Government Secretariat: Commerce and Economic Development Bureau (Commerce, Industry and Tourism Branch)	000	Operational expenses	25

Head of Expenditure		Subhead		Percentage of provision shown in Estimates
155	Government Secretariat: Innovation and Technology Commission	000	Operational expenses	25
170	Social Welfare Department	157	Assistance for patients and their families	100
		176	Criminal and law enforcement injuries compensation	25
		177	Emergence relief	100
		179	Comprehensive social security assistance scheme	30
		180	Social security allowance scheme	30

Schedule 2

[para. 4(b)]

Head of Expenditure		Subhead		Amount \$
106	Miscellaneous Service	689	Additional commitments	0
		789	Additional commitments	1,000,000,000
184	Transfers to Funds	984	Payment to the Capital Works Reserve Fund	0
		988	Payment to the Loan Fund	0"

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

MR CHAN CHI-CHUEN (in Cantonese): President, as the Secretary Prof KC CHAN said just now, the vote on account Resolution to be passed today is a long-established and essential procedure which is the routine of the Legislative Council. It will certainly be passed as a ritual.

After checking the records, I found that the only "exception" occurred in 2011 when 13 Members of the pro-establishment camp attended the Two Sessions held in Beijing and only 17 Members of the pro-establishment camp stayed in Hong Kong to support the Resolution. Eventually, the motion was negated with the support of less than half of Members present. I think Members still remember this vividly. But I was not yet a Legislative Council Member then. I believe the recurrence of such a tragedy is unlikely because the parties concerned have learnt a lesson. During the Two Sessions, the Legislative Council meeting will neither be convened nor such an important motion be submitted to the Legislative Council for approval.

Nevertheless, given that the funds on account for the interim between two financial years can only meet government expenditure for around two months, Financial Secretary John TSANG stated publicly in early March, to this effect, "We have requested a funding approval by the Legislative Council. The proportion of the advanced funds on account sought is only 20% of the provisions, which will be exhausted in June. By then, if the Appropriation Bill is not passed, many services have to cease — hospitals, schools, salaries of civil service, and so on. I would be ..." Mr TSANG said that he would feel a little bit worried. I think he was trying to create some sense of crisis. In fact, the Budgets in the past, including the vote on account and appropriations for the whole year, would be supported by Members, albeit reluctantly, according to the time-honoured convention or tacit understanding of the parliamentary assembly, regardless of how poor or even erroneous the Budget was. The application for the vote on account is made on the assumption that the Budget will be passed by the Legislative Council in April.

I remember that a crisis might occur last year, which was called "fiscal cliff" by the Government. According to the Government, if the funds were used up before the Budget was passed by the Legislative Council, a bunch of problems as mentioned just now would occur: Salaries could not be paid to civil servants, Comprehensive Social Security Assistance could not be paid to recipients, and so on. Back then, we asked whether the Government would apply for vote on account for a second time and whether the amount of funds under vote on account could be increased. I remember the Government said that it would not apply for the vote on account for a second time because if it would, it was tantamount to telling Members who did not want the motion passed that they would have more time. I do not wish to use the term "filibuster". The Government meant that as it had indicated it would not apply for a vote on account for a second time, the President of the Legislative Council would have to face greater pressure for the Budget to be passed before the so-called deadline.

After the reunification, the Government will publish the Budget every year. But in the Budget, erroneous estimates are made year after year. Members have to support and accept the Budget regardless of whether they do so sincerely or reluctantly. Further, they have to dance to the Government's tune. Our time for discussion on the Budget is dictated by the Government. The President will be forced to cut off the filibuster by the so-called "fiscal cliff" crisis theory if our discussion cannot be concluded before the deadline. In fact, last year, I openly expressed in this very same Chamber that I had always felt that the Budget was actually a "budgetary misestimate". Either we or the Financial Secretary have long expected that these estimates are erroneous. And such erroneous estimates have become routine year after year. If this is so, this is not merely a "budgetary misestimate", but a "budgetary scam".

What does the Government rely on? It relies on the fact that the general public do not understand the Budget. Even though some people understand it, they cannot explain it to the public. Thanks to the Internet, many new online media and network stations in recent years, they have begun to blow the whistle in a concerted manner in respect of this budgetary scam and teach the public how to identify some "hypocritical rhetoric", accounting scam and statistical scam. I think conscientious Members are duty-bound to prick the bubble of lies of the Government with a view to raising the public's alertness to the budgetary scam of the Government so that our society will not continue to suffer.

What is the script of this year's "budgetary scam"? First of all, Financial Secretary John TSANG disseminated the message that "sweeteners" would be reduced before publication of the Budget. The message that less "candies" will be handed out aims at diverting the public's attention. This is a kind of expectation management project despite being met with boos. What happened in the end? Many middle-class people are dissatisfied with the absence of electricity tariff rebate and reduction in concession of rates. After doing such "groundwork" for the keynote of expenditure cut, the Report of the Working Group on Long-Term Fiscal Planning (the Working Group) was published, with emphasis placed on structural deficit. With the aura of the academic circle, the so-called theoretical basis is constructed for a new round of "budgetary scam".

The Report of the Working Group points out that a structural deficit would be inevitable if expenditure growth outpaces revenue growth in a persistent manner. And the fiscal reserves of \$700-odd billion will soon be depleted. It seems that the Government is thinking from the angle of the public, and showing concern about the future of Hong Kong before everyone else. The people are advised that they should be vigilant in peace time, trying to explore new sources of income and cut expenditure. Further, expenditures drawing on future income should be avoided. The Working Group echoes the Government's views on the pretext of having conducted a study. It recommends that the Government plan ahead, save up for a rainy day and set up a savings scheme. In addition, a Future

Fund to be set up by injection of the fiscal surplus every year will replace the existing Land Fund as it grows by accumulated revenue through investment.

However, the Working Group has intentionally evaded the details when it comes to the specific use of public money in the future. I would like to describe this as "from reality to vagueness", meaning that the discussion on practical issues has eventually become talk on something imaginary. The Working Group said that it is difficult to predict the priorities in the use of public funds in the 10 years to come or after 10 years. Speaking like an expert, it recommends that we should refrain from discussing the use and mode of operation. Rather we should be realistic, placing the focus on the right time of withdrawals. In fact, this statement must be true. If you have a sum of money but do not know how to use it, do not want to use it or have no idea of how to use it, you will naturally save it up. Certainly, most people will think that how to use the Future Fund is actually a very profound question because no one knows what will happen in 10 years. Even if a university professor says that he knows it, he is lying to you. In short, we should first of all put away the money and save up whatever you have. After that, we should try to make the money "grow" by itself, or else we may face a big problem in the future. As to the question of when the money should be used, it is a problem for the future. With our intelligence, we can certainly think of the answer in the future. It does not matter if we cannot because we will at least have some money on hand.

The Government pretends to be responsible. But in fact, it is rigging the figures to fool the people. So, I said there was an accounting scam in the past and there is a statistical deception this year. What is an accounting scam? According to the Government's revised estimates, the surplus for this financial year is \$12 billion, which represents a difference of \$16.9 billion compared with the original forecast deficit of \$4.9 billion. But the \$12 billion of surplus has not taken into account the relief measures, which will incur \$33 billion this year, and capital injection, which will cost \$40 billion. In the absence of these two items of special spending, the fiscal surplus this year is in fact \$85 billion. Such a huge surplus is recorded even without taking into account these special items of spending. Moreover, the revenue has always been underestimated over the past few years. How can we believe there will be structural deficits in the next seven or 10 years as the Government claimed?

The public may wonder whether the forecast for the next seven or 10 years will be correct if an assessment for just one year is so erroneous. Personally, I would not believe it. If the Working Group is so capable, its members should take the office of the Financial Secretary because they can make an accurate predication for the next 10 years, while our incumbent Financial Secretary has made erroneous estimations in his Budget year after year. So, I wish to tell Members that the biggest problem faced by Hong Kong is not simply a structural deficit. Rather it is the Government which has ignored the suffering of the people. In other words, there is a structural problem within the Government.

Speaking of statistical deception, the examples referred by the Working Group are fundamentally different from the reality of Hong Kong. Most of the countries cited in the report have incurred budgetary deficit or are debt-based economies. Countries such as Australia, Canada, Germany, Japan and the United Kingdom have a deficit budget in recent years. Meanwhile, Singapore and Switzerland can achieve a balance of the books in recent years. Furthermore, most of these countries also bear enormous debts. But, Hong Kong is one of the few examples among the advanced economies which have not incurred any public debts. In the Report, it is recommended that we should follow the example of the Australian Government by setting up a Future Fund and adopt the same name. We consider this trickery. The purpose of Australia's Future Fund is to provide funds for pensions payable to civil servants which have not been provided for. As for the Future Fund mentioned in the Report, there is no clear objective. It will serve as a perfectly justifiable excuse for the Financial Secretary not to spend money as any surplus due to underestimated revenue will go to the Fund.

So, Hong Kong people are really miserable and their situation is comparable to that of the children of a rich father. The father is quite well-off even though he is not very rich. However, his daughter, who suffers from malnutrition, needs money to buy good food. Meanwhile, his wife is sick and wants to see a doctor and his son wants to go to the gym in order to build up a good physique. But what does the father say? "I am rich now, but a fortune teller said that a crisis may occur seven years later. Sorry, you cannot use the money to buy nutritious food or go to the fitness centre. You cannot go to see a good doctor even though you are sick because we have to save up money and live within our means." Many young economists consider that we have to ask ourselves this question: Given that an ageing population will lead to a structural deficit, how can the social cost of a structural deficit be calculated when the fiscal policy, which will affect at least two generations, be formulated? This is the right attitude in exploring the long-term fiscal policy.

Money is obviously left idle on the pretext that a crisis may occur in the future. Let me talk about the Financial Secretary's Blog on 9 March — "collision-alert system". I will quote some of his words to this effect: "We may know that collision-alert systems are installed on all civil aircraft. Warning of the presence of another aircraft nearby will be given to avoid collision. Certainly, warning is given on the assumption that no action has been taken by the pilot. However, no one would consider that the warning can be ignored." The Financial Secretary has also quoted the words of Prof Francis LUI who pointed out to the effect that "The Working Group hopes that the report is a 'self-defeating prophecy' and that the Government and society are aware of an imminent crisis and take appropriate measures so that the prophecy will not come true." In that case, the reasons are always on his side.

Certainly, a warning system is essential for an aircraft. However, if there are always false alarms, you may doubt whether the system should be replaced. Frequent false alarms will produce the effect of "cry wolf". How could you

tolerate it? Hong Kong people certainly hope that the future is promising without any crisis. But whether the prophecy comes true or not, the reasons are always on his side. Why? Because he said that it is a self-defeating prophecy. Why the prophecy will not come true? It is because the Government has already pointed out the problem in 2014, planned ahead and saved up for the rainy day. Thanks to the Government's efforts, the prophecy that a fiscal crisis will occur is smashed. So the reasons are really on his side.

Today, the Government does not have to worry. We will support and pass the motion, not to mention that no one would dare to do anything. But I wish the public to know that we are facing such a Government every year, which is reluctant to spend money or give us sufficient time to debate on handing out cash or rates rebate. However, as Legislative Council Members, what can we do? To propose some amendments during the Budget debate in order to exert pressure on the Government so that it will improve its performance next year. This is the best we can do. But now, such a power may be stifled by the President's decision to "cut off the filibuster". (*The buzzer sounded*)

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Appropriation Bill 2014 is now under the scrutiny of the Finance Committee. Various Policy Bureaux will elaborate their policy areas at the Special Meeting of the Finance Committee to be held on 31 March to 4 April. Members are welcome to express their views. They may also express their views at the next Budget meeting on 9 and 10 April.

I hope Members will support the motion to enable the Government to carry on its services between the start of the financial year on 1 April 2014 and the time when the Appropriation Ordinance 2014 comes into effect with the resources needed.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): The Secretary for Security will move two proposed resolutions under the Mutual Legal Assistance in Criminal Matters Ordinance.

First motion: To approve the Mutual Legal Assistance in Criminal Matters (Spain) Order.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Security to speak and move the motion.

PROPOSED RESOLUTION UNDER THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

SECRETARY FOR SECURITY (in Cantonese): President, I move that the motion, as printed on the Agenda, on the resolution to approve the Mutual Legal Assistance in Criminal Matters (Spain) Order, be passed.

Many crimes are now committed across borders. To tackle cross-border crimes which are on the rise, the international community has to strengthen law enforcement and judicial co-operation.

Hong Kong has been actively co-operating with other jurisdictions on criminal matters, and seeking to conclude bilateral agreements on mutual legal assistance in criminal matters (MLA) with other jurisdictions in accordance with Article 96 of the Basic Law to establish strong and comprehensive co-operation relationships. These bilateral agreements provide for reciprocal assistance between Hong Kong and the contracting parties, and demonstrate Hong Kong's commitment to the international effort in fighting crimes.

The Mutual Legal Assistance in Criminal Matters Ordinance (the MLA Ordinance) provides a statutory framework for implementing agreements on MLA signed between Hong Kong and other jurisdictions, enabling assistance to be provided to or obtained from foreign jurisdictions in the investigation and prosecution of criminal offences. Such assistance includes the taking of evidence, search and seizure, production of material, transfer of persons to give evidence and confiscation of crime proceeds.

Hong Kong has so far signed MLA agreements with 30 foreign jurisdictions, including the MLA agreement signed with Spain in November 2012, and the MLA agreement signed with the Czech Republic in March 2013. Pursuant to the MLA Ordinance, the Chief Executive in Council has made the Mutual Legal Assistance in Criminal Matters (Spain) Order and the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order to implement the two bilateral agreements, to enable the MLA Ordinance to be applied as between Hong Kong and Spain as well as between Hong Kong and the Czech Republic.

As the legislation and the arrangements of each jurisdiction on mutual legal assistance in criminal matters vary, it is often necessary for the corresponding Order to make modifications to certain provisions of the MLA Ordinance to a limited extent in order to reflect the practices of that particular jurisdiction. Such modifications are necessary to enable Hong Kong and the related bilateral partners to discharge their obligations under the respective bilateral agreement. The modifications made for the bilateral agreements between Hong Kong and Spain as well as between Hong Kong and the Czech Republic are respectively specified in Schedule Two to the corresponding Order. These modifications do not affect that the two Orders substantially conform to the provisions of the MLA Ordinance.

The Subcommittee set up by the Legislative Council has completed its scrutiny of the Mutual Legal Assistance in Criminal Matters (Spain) Order and the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order. I would like to thank the Chairman of the Subcommittee, Mr James TO, and other members of the Subcommittee for giving support to the Administration in the submission of the two Orders to this Council for approval.

The two Orders will come into operation on the 30th day after the contracting parties have notified each other that their respective local requirements have been complied with. I will appoint by notices in the Gazette the commencement dates of the Orders in accordance with the requirements of the Orders.

I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Spain) Order. I will in a moment move the resolution to approve the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order.

Thank you, President.

The Secretary for Security moved the following motion:

"RESOLVED that the Mutual Legal Assistance in Criminal Matters (Spain) Order, made by the Chief Executive in Council on 22 October 2013, be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Security be passed.

MR JAMES TO (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Fugitive Offenders (Czech Republic) Order, Mutual Legal Assistance in Criminal Matters (Spain) Order and Mutual Legal Assistance in Criminal Matters (Czech Republic) Order, I speak on the motion moved by the Secretary for Security.

The Mutual Legal Assistance in Criminal Matters (Spain) Order (the Spain Order) provides for the scope and procedures in relation to the mutual legal assistance in criminal matters (MLA) between the HKSAR and Spain as well as modifications made to the Mutual Legal Assistance in Criminal Matters Ordinance (the MLA Ordinance).

Members have noted that Article 3 of the MLA Agreement between the HKSAR and Spain (the Spain Agreement) provides for the grounds on which the Requested Party shall refuse assistance, including "offences of a political character" but excluding, among others, "terrorist offences". Members have also noted that there is no definition of "an offence of a political character" in Hong Kong laws. The Administration has indicated that when a Hong Kong court has to consider whether an offence is of a political character, it will take into account case law, the terms of the MLA Agreement, which is part of the subsidiary legislation, within the perimeter of the MLA Ordinance, in addition to all the circumstances of the offence. The recent international judicial trend has been to exclude terrorist offences from "offences of a political character".

Some members have also noted that the Requested Party may exercise the discretionary ground under Article 3(4) to refuse assistance if the cases relate to an offence which is punishable with life imprisonment or carries a prison sentence of undetermined duration. The Administration has explained that Spain always provides a maximum sentence for its offences and thus requests that this provision be included in the Agreement to reflect the position under its law. That said, when Hong Kong makes assistance requests to Spain that involve offences that carry a prison sentence of undetermined duration, Hong Kong may explain to Spain the sentence reviewing mechanism under the Long Term Prison Sentences Review Ordinance, which allows the substitution of an indeterminate sentence of a prisoner by a determinate one, for Spain's ultimate consideration of whether to invoke the discretionary right of refusal.

Regarding Article 18, which provides for spontaneous submission of information from one Party to the other Party, members are concerned about the specific policy towards exchange of information under this Article. The Administration has explained that under the Spain Agreement, provision of any information is on a voluntary basis and the article does not in any way oblige Hong Kong to provide information spontaneously. In fact, Hong Kong has, from time to time, received spontaneous information from its counterparts in relation to offences which may be connected to Hong Kong.

President, the Subcommittee has no objection to the Spain Order.

President, I shall now express my personal opinions.

As I mentioned earlier, during the scrutiny of the report by the Subcommittee, I was concerned about under what circumstances "terrorist offences" will be excluded from "offences of a political character", though I understand that this is the international trend of enacting legislation. Under what circumstances will "terrorist offences" be considered or not considered as "offences of a political character"?

I have referred to some case law recently and found that the relevant scope is actually not clear. Certainly, I understand that insofar as the major international trend is concerned, many countries and jurisdictions share the view that "terrorist offences" should be broadly excluded from "offences of a political character". However, under some specific circumstances or in certain situations, the so-called "terrorist offences" might fall under the general principle of conventional "offences of a political character", which means that extradition or assistance will not be granted. Hence, Hong Kong agrees to the exclusion of "terrorist offences" from the express provision of "offences of a political character" in conformity with the international trend, though two hurdles must be cleared in the end.

First, doing so will bring hardships to the Hong Kong Government in rejecting the request made by a Requesting Party (such as Spain in this case) — though an offence is considered by Spain to be a "terrorist offence", it is regarded by Hong Kong as an "offence of a political character".

Second, when a court has to consider whether an offence is "of a political character" or falls under the principle of no assistance or extradition, it will exclude terrorist offences from "offences of a political character" in view of this piece of subsidiary legislation. As a result, the Court will have to take more factors into consideration. To put it in simpler words, the Court will give greater consideration to whether extradition or assistance should be granted in cases involving "terrorist offences".

That said, I am aware of the international judicial trend, too. Hence, I can only hope that the Courts in Hong Kong can exercise their wisdom as they did in the past and, in hearing such applications or judicial reviews, carefully consider the scope and nature of individual cases and adhere to their principle firmly. Even if an offence "of a political character" might fall under the general principle of "terrorist offences" or have such a background, extradition or assistance should still not be granted.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Security to reply.

SECRETARY FOR SECURITY (in Cantonese): President, I thank Mr James TO for his speech. I would also like to thank the Subcommittee again for completing the scrutiny of the Mutual Legal Assistance in Criminal Matters (Spain) Order (the Spain Order) and supporting its introduction into the Legislative Council for passage. As I mentioned earlier, the Spain Order substantially conforms to the relevant provisions of the Mutual Legal Assistance in Criminal Matters Ordinance.

Regarding the issues raised by Mr James TO just now, I believe the Courts in Hong Kong will definitely consider them in a fair and impartial manner according to the established judicial principles and the law.

President, here I implore Members to approve the making of the Spain Order for the implementation of the bilateral agreements signed between Hong Kong and Spain on MLA.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Security be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion under the Mutual Legal Assistance in Criminal Matters Ordinance: To approve the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Security to speak and move the motion.

PROPOSED RESOLUTION UNDER THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

SECRETARY FOR SECURITY (in Cantonese): President, I move that the motion, as printed on the agenda, on the resolution to approve the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order, be passed.

In moving the motion on the resolution to approve the Mutual Legal Assistance in Criminal Matters (Spain) Order just now, I explained the purpose and importance of concluding bilateral agreements on mutual legal assistance in criminal matters between Hong Kong and other jurisdictions, as well as the procedural arrangements for implementing such bilateral agreements through the making of orders on mutual legal assistance in criminal matters.

Pursuant to the Mutual Legal Assistance in Criminal Matters Ordinance (the MLA Ordinance), the Chief Executive in Council has made the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order to implement the bilateral agreement on mutual legal assistance in criminal matters signed between Hong Kong and the Czech Republic, to enable the MLA Ordinance to be applied as between Hong Kong and the Czech Republic. As specified in Schedule 2 of the Czech Republic Order, certain provisions of the MLA Ordinance are modified to a limited extent. Such modifications do not affect that the Order substantially conforms to the provisions of the MLA Ordinance.

I now invite Members to approve the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order.

Thank you, Mr President.

The Secretary for Security moved the following motion:

"RESOLVED that the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order, made by the Chief Executive in Council on 22 October 2013, be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Security be passed.

MR JAMES TO (in Cantonese): In my capacity as Chairman of the Subcommittee on Fugitive Offenders (Czech Republic) Order, Mutual Legal Assistance in Criminal Matters (Spain) Order and Mutual Legal Assistance in Criminal Matters (Czech Republic) Order, I speak on the motion moved by the Secretary for Security.

The Mutual Legal Assistance in Criminal Matters (Czech Republic) Order (the Czech Order) provides for the scope and procedures in relation to the mutual legal assistance in criminal matters (MLA) between the HKSAR and the Czech Republic as well as modifications made to the Mutual Legal Assistance in Criminal Matters Ordinance (the MLA Ordinance).

Members have noted that section 5 of the MLA Ordinance provides for the safeguards to be observed in processing a request from the Requesting Party, but such safeguards are not set out in the agreements between the HKSAR and the Czech Republic. Some members have expressed concern about whether the power of the Secretary for Justice to refuse a request for assistance has been restricted under the Czech Order. The Administration has advised that in processing a request from the Requesting Party, Hong Kong shall observe all the safeguards as specified under section 5 of the MLA Ordinance, subject to the modifications to the MLA Ordinance as set out in Schedule 2 to the Czech Order. To put it beyond doubts, however, members have requested the Administration to as far as practicable set out in future MLA agreements the relevant requirements in the MLA Ordinance.

Members have noted that Article 8(3) of the Agreement permits the use of information obtained pursuant to a request to certain specific purposes that are not stated in the request, thereby resulting in possible abuse of the information so provided. The Administration has explained that the specific purposes are only valid for the prevention of serious crime and serious threat to public order. The relevant information is not to be used when any such crime has already been committed, where a request for assistance would still be necessary. Therefore, the primary rule that "the information is not to be used for the purpose of any other investigation or prosecution" still holds. The Administration has also pointed out that the provision is consistent with the exemption in section 58(2) of the Personal Data (Privacy) Ordinance, which provides for exemption in cases where use of personal data is necessary for prevention of crime. President, the Subcommittee has no objection to the Czech Order.

President, I shall now express my personal opinions.

As I mentioned in the report just now, it is the unanimous hope of the Subcommittee that the Government can as far as practicable set out those safeguards in future MLA agreements rather than relying purely on the bottom lines provided for in the MLA Ordinance as safeguards. Why? Because several unsatisfactory situations may arise if safeguards are only provided for in section 5 of the MLA Ordinance and our acceptance of or consent to the requests made by the Requesting Party would depend on those safeguards as our bottom line given that the relevant provisions are not set out in the agreements when they are signed, unless there are very strong objections to the setting out of the provisions in black and white in the agreements.

Firstly, people in Hong Kong or elsewhere may have no idea of the specific circumstances when they see these agreements or provisions. As a result, they might be concerned about whether those safeguards are regarded as our core values, and whether Hong Kong will uphold these values in signing agreements with other places.

Second, people responsible for gate-keeping in other countries, such as parliamentary members or other persons appealing to the governments of their countries to make a request to Hong Kong pursuant to the relevant agreements, including lawyers, victims or other persons who are required to refer to those provisions for the purpose of making a request, might be misled. Hence, unless there are compelling reasons or, as the lesser of two evils, we are obliged to sign agreements with certain countries or governments without setting out those safeguards in black and white, we should make a request by all means in the course of negotiations for those safeguards to be put down in the agreements.

Another point I would like to make concerns the permission for the Requesting Party to use information obtained pursuant to a request for certain specific purposes that are not stated in the request for the prevention of serious crime and serious threat to public order. President, in this regard, if permission is really granted for such purposes, I think it should be confined to countries or places with whom we are obliged to enter into agreements. Why? Because the information can be provided through other channels for the prevention of serious crime and serious threat to public order, including Interpol, or even agreements signed by both parties on a reciprocal basis to enable the information to be provided to the Requesting Party on a voluntary basis in accordance with the law. If we think that such information should be used solely for certain purposes specified in the agreement, rather than for the prevention of serious crime and

serious threat to public order for convenience sake, then every provision in every agreement should be subject to a unique scope of discussion, as well as background and conditions for consideration. Hence, I personally think that unless it is impossible for us to turn down the requests made by the aforesaid countries or places, we should strive by all means to discontinue this practice of including the provisions in our future agreements for permission to be granted to the Requesting Party to use information obtained for seemingly legitimate purposes.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Security, please reply.

SECRETARY FOR SECURITY (in Cantonese): President, I would like to thank Chairman of the Subcommittee, Mr TO, for his speech delivered on behalf of the Subcommittee. I would also like to thank the Subcommittee again for completing the scrutiny of and its support for the introduction of the Mutual Legal Assistance in Criminal Matters (Czech Republic) Order (the Czech Order) into the Legislative Council for passage. As I mentioned just now, the Czech Order substantially conforms to the provisions of the Mutual Legal Assistance in Criminal Matters Ordinance.

The two concerns expressed by Mr TO will be taken into consideration in our future work.

President, I move that the Czech Order be passed.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Security be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) Regulation 2014 and the Poisons List (Amendment) Regulation 2014.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Food and Health to speak and move the motion.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR FOOD AND HEALTH: President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains several Schedules under the Pharmacy and Poisons Regulations and a Poisons List under the Poisons List Regulations. Pharmaceutical products put under different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars

of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of seven pharmaceutical products, the Pharmacy and Poisons Board proposes to add the following substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations:

- (1) 5-aminolevulinic acid; its salts; its derivatives; their salts;
- (2) Cobicistat; its salts;
- (3) Elvitegravir; its salts;
- (4) Lixisenatide;
- (5) Mifepristone; its salts; its esters; their salts;
- (6) Perampanel; and
- (7) Pertuzumab.

Pharmaceutical products containing the above seven substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

For amendment regulations concerning the adding of the above seven substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations, we propose them to take immediate effect upon gazettal on 21 March 2014, to allow early control and sale of the relevant medicines.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under the Ordinance to regulate pharmaceutical products. The Board comprises members engaged in the

pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicines concerned.

With these remarks, President, I hope Members could support the motion.

Thank you.

The Secretary for Food and Health moved the following motion:

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 14 February 2014, be approved —

- (a) the Pharmacy and Poisons (Amendment) Regulation 2014;
and
- (b) the Poisons List (Amendment) Regulation 2014."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Food and Health be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

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

First Member's motion: To extend the period for amending three items of subsidiary legislation in relation to the Toys and Children's Products Safety Ordinance, which were laid on the table of this Council on 19 February 2014.

I now call upon Mr Jeffrey LAM to speak and move the motion.

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

MR JEFFREY LAM (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation, Toys and Children's Products Safety Regulation (Repeal) Regulation and Toys and Children's Products Safety (Amendment) Ordinance 2013 (Commencement) Notice, I move the motion on the extension of the scrutiny period of the three items of subsidiary legislation to 9 April 2014.

At the meeting of the House Committee on 21 February 2014, Members decided to form a subcommittee to jointly examine the three items of subsidiary legislation as set out in the motion. Since the Subcommittee requires more time for the scrutiny work, I implore Members to support the motion.

Mr Jeffrey LAM moved the following motion:

"RESOLVED that in relation to the —

- (a) Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation, published in the Gazette as Legal Notice No. 17 of 2014;

- (b) Toys and Children's Products Safety Regulation (Repeal) Regulation, published in the Gazette as Legal Notice No. 18 of 2014; and
- (c) Toys and Children's Products Safety (Amendment) Ordinance 2013 (Commencement) Notice, published in the Gazette as Legal Notice No. 19 of 2014,

and laid on the table of the Legislative Council on 19 February 2014, 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 9 April 2014."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Jeffrey LAM 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): Second Member's motion: Mr Andrew LEUNG will move a motion under Rule 49E(2) of the Rules of Procedure to take note of the Air Pollution Control (Marine Light Diesel) Regulation, which was included in Report No. 13/13-14 of the House Committee laid on the Table of this Council.

According to the relevant debating procedure, I will first call upon Mr Andrew LEUNG to speak and move the motion, and then call upon the Chairman of the Subcommittee formed to scrutinize the relevant item of subsidiary legislation, Ms Cyd HO, to speak, to be followed by other Members. Each Member (including the mover of the motion) may only speak once and may speak for up to 15 minutes. Finally, I will call upon the public officer to speak. The debate will come to a close after the public officer has spoken, and the motion will not be put to vote.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon Mr Andrew LEUNG to speak and move the motion.

MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE

MR ANDREW LEUNG (in Cantonese): President, in my capacity as Chairman of the House Committee, I move the motion, as printed on the Agenda, under Rule 49E(2) of the Rules of Procedure to allow Members to have a debate on the Air Pollution Control (Marine Light Diesel) Regulation which was included in Report No. 13/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments.

President, I so submit.

Mr Andrew LEUNG moved the following motion:

"That this Council takes note of Report No. 13/13-14 of the House Committee laid on the Table of the Council on 19 March 2014 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Air Pollution Control (Marine Light Diesel) Regulation (L.N. 2/2014)."

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

MS CYD HO (in Cantonese): In my capacity as Chairman of the Subcommittee on the Air Pollution Control (Marine Light Diesel) Regulation, I report the deliberations of the Subcommittee.

The Air Pollution Control (Marine Light Diesel) Regulation (the Regulation) seeks to regulate and control the sulphur content of marine light diesel (MLD) supplied in the local market, stipulating that MLD must not contain more than 0.05% sulphur by weight. The Regulation will come into operation on 1 April 2014.

The Subcommittee has held two meetings with the Administration and received written submission from three organizations. Marine vessels are the largest local air emission source. To reduce vessels' emissions, the members of the Subcommittee in general support the Regulation in introducing a statutory sulphur limit of 0.05%. The Subcommittee noted that the Government had consulted MLD importers and suppliers, as well as local trades, and they had no objection in principal to the proposal. The Subcommittee had expressed concern about the possible increase in operation cost for marine vessels.

The Administration indicated that it would provide the Panel on Economic Development of the Legislative Council with monthly import price of light diesel oil (LSD) for public monitoring, and if there was significant difference between the retail price and the import price of LSD, oil companies would need to explain the case. The Administration also pointed out that there was no cause of concern about price manipulation, as LSD was a standard type of MLD available in the Asian market, which supply was adequate. Moreover, all companies had confirmed their ability to supply LSD.

The Subcommittee had queried the effectiveness of the implementation of the Regulation in improving the ambient air quality of Hong Kong, as the sulphur content of heavy oil used by ocean-going vessels whilst at berth in Hong Kong waters was not within the scope of regulation. The Administration explained that since ocean-going vessels operate internationally, the sulphur content of heavy fuel oil used by ocean-going vessels is subject to the regulation of the

International Maritime Organization, which must not exceed 3.5%. To help improve air quality, particularly in port areas, the Administration plans to mandate all ocean-going vessels to switch to the use of fuel containing not more than 0.5% sulphur when berthing in Hong Kong waters in 2015.

The Subcommittee had questioned whether, after the implementation of the Regulation, the operator of an individual vessel, who had unknowingly supplied MLD containing a sulphur content exceeding 0.05% to another person, would commit an offence under the Regulation. It is stipulated in section 4(1) of the Regulation that a person commits an offence if the person supplies, or cause to be supplied, any MLD that does not comply with Schedule 1. The Administration confirmed in its reply that the operator would commit an offence under section 4(1) of the Regulation for supply of MLD not complying with the requirement. The Administration pointed out that if section 4(1) of the Regulation was only targeted at MLD importers and suppliers, people subject to the Regulation might attempt to defend their cases by saying they were only providing MLD for their friends, which did not constitute the conduct of MLD supplying business. As such, "a person" under section 4(1) of the Regulation should include the operator providing MLD in the abovementioned example, or else, the effectiveness of the Regulation would be undermined.

At the request of the Subcommittee, the authorities have agreed to step up publicity efforts to inform owners and operators of local vessels that the targets of the Regulation fall on the supply side of MLD but not the users. The Subcommittee had expressed concern that no definition was given for "warship" and "any other vessel for military service" referred to in section 4(2) of the Regulation. The Administration advised that "warship" and "any other vessel for military service" mentioned in section 4(2) of the Regulation referred collectively to military vessels. At present, in certain laws of Hong Kong, military vessels are also mentioned but no definition is given in them. "Warship" and "any other vessel for military service" both belong to the naval establishment, with the latter supporting the operation of the former. A typical example of the latter is a fleet replenishment oiler. So far, the authorities have not encountered any problem in enforcement.

The Subcommittee supports the Regulation coming into effect on 1 April 2014.

President, I will now express my personal views on the Regulation. Members will agree that marine diesel is a major air emission source in the harbour. At present, we may still find vessels using fuel with heavy sulphur content, which is far higher than the sulphur content of low sulphur fuel oil or diesel used by motor vehicles in Hong Kong. Therefore, when we propose regulating the fuel used by motor vehicles and even consider replacing it with electric power on the one hand, we should on the other regulate the sulphur content of marine fuel. The present Regulation aims at regulating the supply. In other words, local suppliers and importers are the subject of regulation. However, in reality, many vessels in Hong Kong sail to and fro the Pearl River waters serving as river transport. Therefore, if we only impose regulation on local suppliers without taking a further step to establish cross-boundary co-operation with Guangdong Province, the effectiveness of such regulation may not be prominent, for only small vessels or fishermen operating in Hong Kong waters will be subject to the Regulation.

President, as mentioned earlier, if any vessel in the Hong Kong waters offers assistance to another vessel having run out of diesel by providing marine diesel with sulphur content exceeding the required level — as in the case of a motor vehicle running out of power and cannot be started, a "jump start cable" is used to start the vehicle again. Will the vessel in the former case be subject to the Regulation? We are worried about this point. If this practice of "a helping hand in emergency" is not subject to regulation, the use of substandard diesel in Hong Kong waters will become prevalent sooner or later, as in the case of the water market in Thailand. If everyone seize on the excuse of helping friends to finish the final session of their voyage to Hong Kong to supply marine fuel, which may even be of high sulphur content or supplied by the Mainland, this so-called "a helping hand in emergency" practice will disable the Regulation. Therefore, I thank the Government for taking the initiative to clarify the case to the Subcommittee. Of course, it is essential to complement this with education, so that vessels of Hong Kong know that it is allowable to give "a helping hand in emergency" provided that standard LSD (with a sulphur content of not more than 0.05%) is used. But if substandard fuel is used, the person will be liable to the legal consequences of supplying substandard fuel.

It is a fact that ocean-going vessels are another major source of pollution. At present, vessels are encouraged to swift to LSD upon entering Hong Kong waters under the "Fair Winds Charter" with the offer of free berthing, and the

authorities will impose regulation by way of legislation later. Yet we hope to keep one to two cruises berthing at the cruise terminal in Kowloon East. Since the supply of shoreside power is not yet available for the time being, if cruises berthing in the Victoria Harbour of Hong Kong use high sulphur diesel, they will give off emissions continuously at the same time, which will affect the residents in Kowloon East, San Po Kong and Kowloon City seriously. Therefore, we hope that apart from the early enactment of the legislation on regulating the sulphur content of diesel used by ocean-going vessels, the authorities should provide shoreside power as soon as possible. Though a standardized format is not yet available in the international community, there are only two formats. How long will it take to implement it? Why can a cruise terminal of such great size not be provided with two formats of power? If so, no matter which format the vessel coming to the berth use, shoreside power can be provided immediately.

Finally, many fishermen are worried about the price. They are concerned that the case of liquefied petroleum gas (LPG) for taxi will repeat, where concessionary and low price was offered prior to the enactment of the legislation but the price rose continuously once the legislation was enacted. The present price of LPG is nearly several times higher than the previous price. In view of this, we are gravely concerned about price control. Though it is said that high transparency will be maintained in future, and that oil companies are required to give explanation when there is a significant difference between the retail price and the import price of LSD, the Government does not have any legal basis to impose effective regulation. The Government is no more than a toothless tiger even though it may require oil companies to give explanation.

Apart from fishermen, residents of the outlying islands are also worried. Residents of the outlying islands all along consider the ferry fare between their residence on outlying islands and the urban area very expensive. If the operation costs of ferries increase as a result of the switch to LSD in future, and the increase is transferred to them, their cost of living will be very high. In this connection, I urge the authorities to consider enacting legislation to regulate the price in future in addition to the administrative arrangement of requiring oil companies to give explanation when there is a significant difference between the retail price and the imported price. I believe legislation is essential in this aspect. Thank you, President.

MR FRANKIE YICK (in Cantonese): President, last year, the World Health Organization (WHO) classified outdoor air pollution as a leading source of carcinogen. This has definitely aroused our concern about the impact of air pollution on the health of the public. According to the Hedley Environmental Index of the School of Public Health of the University of Hong Kong, the social cost incurred by Hong Kong in 2012 because of air pollution was extremely expensive. The actual economic loss amounted to \$3.3 billion and the intangible economic loss was as high as \$36.3 billion, whereas around 3 000 persons' deaths were advanced because of air pollution. Hence, the current-term Government should brook no delay in improving the air quality in Hong Kong.

I am the representative of the transport sector. More often than not, transportation, both on land and at sea, is alleged to be a source of air pollution. But since we live under the same sky, the sector will render its support and co-operation to measures introduced by the Government to improve air quality in Hong Kong provided that the measures are fair and reasonable and do not affect the operation of the trade. Take the phrasing out of Pre-Euro IV diesel commercial vehicles as an example. The trade did not support the scheme at the beginning, yet I would like to reiterate that it was not because the land transport trade did not support environmental protection, only that the initial proposal put forth by the Government had not given any regard to the actual operation of the trade. If the scheme was taken forward according to the original proposal of the Government, it would not have alleviated air pollution but would greatly increase the financial burden of the transport sector instead, leading to a loss-loss situation. However, after frank and sincere discussions between the Government and the trade, the disagreement between both sides was narrowed down. The enhanced proposal put forth by the Government minimized the impact on the trade and thus remove their worries. The scheme eventually won the support of the sector. Hence, regarding the requirement on marine light diesel (MLD) with sulphur content of not more than 0.05% as proposed by the Government today, the sector will definitely give its support if the Regulation will not affect the operation or significantly increase the financial cost of the marine transport sector.

The Government's proposal to tighten sulphur content of MLD used by local vessels and river vessels is supported in principle the marine transport sector which has provided vessels to assist the Government in testing the use of low sulphur diesel (LSD). First, I would like to declare here in passing that I am a Director of the Star Ferry Company Limited, which is one of the companies

participating in the pilot scheme back then. The sulphur content of the LSD proposed by the Government is not more than 0.05%, which is 90% lesser than the diesel currently in use, and it will surely be conducive to the improvement of air quality in Hong Kong in some measure.

Back then at the time of testing, only MLD and ultra low sulphur diesel (ULSD) with sulphur content capped at 0.005% were supplied and available in the market. At that time, the price of ULSD was \$0.93 higher than the price of MLD currently used by the trade, which was about 21% higher. The marine transport sector is worried that that LSD may become more expensive than MLD with sulphur content of 0.5% now commonly in use. Moreover, results of the test indicate that there will be a small increase in fuel consumption for vessels using LSD. For a vessel with a daily fuel consumption of 500 litres to 600 litres, the trade estimates that an additional fuel cost of some \$10,000 monthly will be incurred. For the ferry trade which is already facing difficulties in operation, the further increase in operating cost will undoubtedly increase their already heavy burden. Even for the six routes now subsidized by the Government, the operators will not be able to cope with the additional cost incurred by using LSD, not to mention the small-scale ferry operators receiving no subsidy from the Government. In the face of the increase in operating cost, commuter services and cargo services may both cope with the increase by transferring the cost onto the public, that is, to increase fares. It is natural that the general public will eventually be affected. Another possibility is to close their businesses and leave the trade, and this will affect the marine transport services in Hong Kong.

After that, the Government estimated that the price difference between light diesel with sulphur content of 0.5% and LSD with sulphur content of 0.05% would only be \$0.07 per litre, which means an increase of only 1%. If the Government's estimate is correct after the implementation of the Regulation, that is, the price of LSD with sulphur content of 0.05% will only increase by 1%, which means a monthly increase of a thousand dollar or so in operating cost, the trade will consider it relatively acceptable in comparison with the \$10,000 or so increase in the previous estimation. The former Secretary for the Environment had said that there was a price for environmental protection. I believe the marine transport sector is willing to contribute to the improvement of air quality in Hong Kong by bearing the additional cost within their affordability. However, some members of the trade said that the difference of \$0.07 was calculated according to Singapore free-on-board prices, and the difference in retail prices might turn out to be far higher than \$0.07. For this reason, the trade

is anxious that the fuel cost will surge rather than increase slightly as the Government claimed.

The Government says that the supply of LSD is now increasing. As at the end of last year, the supply of LSD in the market had increased by 20%. Upon the implementation of the Regulation, oil companies must supply LSD with sulphur content not more than 0.05%, the Government thus considers that with the corresponding increase in the supply of LSD and the obviated need for additional treatment of LSD on the part of oil companies, the price difference should be further narrowed. However, this explanation can hardly allay the worries of the trade. For this reason, the trade hopes that the Government will provide them with compensation or subsidy in some measure if the price of LSD with sulphur content not more than 0.05% surges significantly in future or increases beyond a certain level, so as to alleviate the trade's financial burden arising from the increase in fuel cost.

I hope the Bureau will consider the views of the trade. First, the marine transport sector is having a hard time in operation, particularly in commuter services. I believe the Government knows that full well, or else, the Government would not have offered special relief measures in respect of the six major outlying island ferry routes. Moreover, the Government has all along been offering various financial concessions as the incentive to attract operators to use cleaner fuel, such as concession under the Port Facilities and Light Dues Incentive Scheme for Ocean-going Vessels Using Cleaner Fuel, subsidies for owners to replace their ageing diesel commercial vehicles and first registration tax exemption for electric vehicles, and so on. Since it is not a new initiative for the Government to use financial support as an incentive to encourage operators to use cleaner fuel, the Government should treat the marine transport sector facing operation difficulties equally.

Since fuel cost is a major cost of vessel companies, and the fuel price remains at a high level though it has fallen back from the highest point in recent years, the trade hopes that the Government will monitor oil companies. To allay the worries of the trade, the Government will enhance the transparency of oil price by reporting the monthly import price of LSD to the Panel on Economic Development of the Legislative Council, so that the public can check online the oil price trend. However, enhancement in transparency cannot avert the suspicion that oil companies may monopolize the market and manipulate the

price. As such, the Government should examine ways to impose effective monitoring on oil companies, preventing the problems of "increases in price are greater than decreases in price" and "increases in price are implemented faster than decreases in price" that may increase the operation pressure of the trade.

Moreover, the trade is worried about the possible criminal liability they may be liable to in the event that LSD with sulphur content exceeding 0.05% is used inadvertently or in emergency. The Bureau said that the Regulation pinpoints oil companies and suppliers, so after the implementation of the Regulation, a person will not be liable to criminal liability for using MLD with sulphur content exceeding 0.05%. To enable the marine transport sector to have a clear understanding of the content of the Regulation, the authorities have undertaken to step up the publicity and education on the content of and the liabilities under the Regulation. The Environmental Protection Department will conduct a briefing on the Regulation this Friday to further explain the content of the Regulation to owners and operators of local vessels. We thank the Bureau for the arrangement.

For the purpose of improving the air quality of Hong Kong, apart from the Regulation today, the Government is drafting legislation to mandate all ocean-going vessels to switch to the use of cleaner fuel when at berth. However, if the air quality of Hong Kong is to be improved remarkably, the co-operation of Guangdong Province and Pearl River Delta in the vicinity and mutual support between the Hong Kong and these places is required. I hope that the authorities will reach a consensus on the improvement of air quality with the Mainland as soon as possible. Otherwise, despite the efforts made in tightening emission requirement and use of fuel, we can hardly bring about remarkable improvement in air quality and alleviation of air pollution.

With these remarks, President, I support the Air Pollution Control (Marine Light Diesel) Regulation.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Members have already spoken. I now call upon the Secretary for the Environment to speak.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the Government proposes amending the Air Pollution Control (Marine Light Diesel) Regulation (the Regulation) to enhance the quality of marine light diesel (MLD) used by local vessels, so as to reduce emission from vessels and improve air quality, providing further protection to the health of the public.

I would like to thank the Chairman of the Subcommittee on Air Pollution Control (Marine Light Diesel) Regulation, Ms Cyd HO, members of the Subcommittee and colleagues in the Legislative Council Secretariat for completing the scrutiny and the report on deliberations in February this year. I would also like to thank Honourable Members who have just spoken. I thank Members for expressing their views and support for our work.

Regarding the objectives and operation of the Regulation, in 2012, emission from vessels was the largest source of air pollution in Hong Kong. Sulphur dioxide emitted by vessels accounts for 50% of the total emission in Hong Kong, whereas the emission of nitrogen oxides and respirable suspended particulates (RSP) both account for one third. By enhancing the quality of marine diesel, these pollutants in the air will be reduced. Upon the implementation of the Regulation, the sulphur content of marine diesel supplied in Hong Kong should not exceed 0.05%. In comparison with the marine diesel with sulphur content of 0.5% currently in use, the emissions of sulphur dioxide and RSP will be reduced by 90% and 30% respectively, whereas the total emissions of sulphur dioxide and RSP by all vessels in Hong Kong will be reduced by 10% and 4% respectively. This will definitely help improve the air quality and protecting the health of the public, and the improvement in coastal areas will be more obvious.

The Regulation stipulates that the sulphur content of MLD supplied in Hong Kong shall not exceed 0.05%, which is 90% lower than the existing limit of 0.5%. We have also imposed regulation on other characteristics of oil products to ensure that oil products are in compliance with international standards. Under the Regulation, marine fuel importers are required to keep quality test reports of oil products, and marine fuel importers and suppliers are also required to keep

transaction records on fuel supply, for the examination of law-enforcement officers. Law-enforcement officers may take samples at supply outlets for examination.

The policy of "control at source" is adopted under the Regulation, which means regulating the quality of marine fuel supplied within Hong Kong but not the quality of oil products used by vessels. In fact, many local and river vessels have only one fuel tank, so it is infeasible and impractical to mandate these vessels to empty their fuel tanks with remaining marine fuel and fill their tanks with low sulphur diesel (LSD) supplied in Hong Kong.

Regarding the views of the trade, in the course of drafting the Regulation, the Environmental Protection Department (EPD) had maintained close co-operation with the local shipping industry and marine fuel suppliers throughout the past two years. We had organized nearly 20 consultation and briefing sessions to collect the views of the trade. In formulating the details of the Regulation, we have given full consideration to the views of the trade.

After referring to the views of the trade and analysing the situation of the local diesel supply market, we decided to set the sulphur limit for MLD at 0.05% (which is LSD), for LSD is a standard type of MLD, which supply is abundant in the Asian market and all oil companies have confirmed their ability to supply adequate LSD,

Since the trade is worried about the impact on operating costs brought about by the enhancement in oil product quality, we decided to apply the new standard to the local shipping industry as a whole instead of applying it only to certain members of the trade. Through this arrangement, oil companies will be spared from procuring additional equipment and making specific arrangement to handle different kinds of oil products. As such, the increase in cost in supplying LSD should basically be reflecting the cost difference between high sulphur diesel and LSD. At present, the difference is about 1% of the retail price of marine fuel, which will be narrowed down gradually. Moreover, the EPD will report the monthly import price of LSD to the Panel on Economic Development of the Legislative Council, which will be uploaded onto the website of the Legislative Council, to enhance the transparency of the market.

The trade is also concerned about the applicability of LSD to the engines of local vessels, particularly those of older models. For this reason, the EPD and

the local shipping industry, including vessel owners, operators and mechanical repairs operators, has set up the Working Group on Upgrading the Quality of Marine Light Diesel. We have also commissioned the Department of Mechanical Engineering of the University of Hong Kong to conduct a technical study, which results proved that LSD is compatible with vessel engines.

Regarding the views of the Subcommittee, we have adopted the many proposals put forth by the Subcommittee on the Regulation. The Subcommittee has proposed that the Administration should step up its publicity and education efforts to facilitate the trade in understanding the objective of the Regulation, which is to regulate the quality of oil products provided by suppliers but not the quality of oil products used by vessels. In response to this proposal, the EPD had arranged for another briefing recently to explain to the trade the content of the Regulation in detail, including the arrangement of regulation at source.

The Subcommittee has also proposed to the Government to consider providing training to operators of local vessels to help them understand how to repair vessels using LSD and explore other low-pollution technology. From the technical perspective, the use of LSD will reduce wear-and-tear of engine cylinder liners and enhance the performance of engines. Given that, the EPD will liaise with the Vocational Training Council to arrange for relevant training for the trade when necessary.

Some Members have proposed that the Government should conduct technology studies on emission reduction and energy saving of vessels. The EPD always keeps a watch on the latest development of the relevant technology in the international community, and if the trade plans to examine new technology in transport, they may apply for funding from the Environment and Conservation Fund or the Pilot Green Transport Fund set up under the EPD. At present, some members in the local shipping industry have applied for funding from these two Funds to try out new technology.

In response to the request of the Subcommittee, I will again explain the definition adopted by the Government for "warship" and "any other vessel for military service". These two types of vessels refer collectively to military vessels. We may consider the following facts in determining whether the vessels are military vessels:

- (1) belonging to the armed forces of a state;
- (2) bearing external marks that distinguish the nationality of such ships;
and
- (3) under the command of an officer commissioned by the government of the state.

These considerations are consistent with the international practices. In certain laws in Hong Kong, military vessels are also mentioned but no definition is given in them. Law-enforcement departments will adopt the above factors in considering whether the vessel in question is a military vessel, and they have not encountered any problem in enforcement. In the implementation of the Regulation in future, the same factors will be considered in determining whether a vessel is a military vessel.

"Warship" and "any other vessel for military service" both belong to the naval establishment, with the latter supporting the operation of the former. A typical example of the latter is a fleet replenishment oiler.

To conclude, the Regulation will come into operation on 1 April, and the quality of MLD supplied locally will be enhanced significantly, which will help reduce the emission from vessels. The Regulation will be conducive to the improvement of our air quality and protection of the health of the public, and thus further enhance Hong Kong's image as a green harbour.

I thank Members for supporting the passage of the Regulation. Thank you, President.

PRESIDENT (in Cantonese): In accordance with Rule 49E(9) of the Rules of Procedure, I will not put any question on the motion.

PRESIDENT (in Cantonese): Third Member's motion: Proposed resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon Mr TAM Yiu-chung to speak and move the motion.

PROPOSED RESOLUTION UNDER ARTICLE 75 OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MR TAM YIU-CHUNG (in Cantonese): President, in my capacity as Chairman of the Committee of Rules of Procedure (CRoP), I move that the proposed resolution on amending the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be passed.

Documents and records of the legislature refer to those documents and records produced in connection with or arising from the Legislative Council and the former legislature in discharging its constitutional functions. They may broadly be defined as open or closed documents and records, with most of them being open to public access at any time. At present, access requests to closed documents and records from the public are dealt with on a case-by-case basis by the Legislative Council Secretariat. However, closed documents and records of certain defunct committees (such as select committees) are not available for public access. To formalize and enhance the existing arrangements, the CRoP proposed to seek the authorization of the Legislative Council for providing access to closed documents and records of the legislature, and to make consequential amendments to the Rules of Procedure to implement the relevant proposals.

The CRoP noted that in April and July last year, the Legislative Council Secretariat consulted all Members and the public on the proposed information access policy and its related details. Members and the public in general supported the proposal. One of the major issues is the setting of the maximum closure period for closed documents of the legislature and the conduct of a review for declassification.

Under the existing access arrangement, closed documents and records will remain closed unless they are requested access by the public and the relevant documents and records do not fall under certain exemptions. This is the only opportunity for these documents and records to be declassified. As the

sensitivity of documents and records diminishes over time, it follows that no documents or records of the legislature should be kept closed forever unless the disclosure is prohibited by law.

In this connection, the CROp proposes that: the maximum closure period for classified documents and records should be 50 years unless the disclosure is prohibited by law; these documents and records should be subject to review for declassification within 25 years. For those classified documents and records which remain to be classified after a review, they should be reviewed again at least once every four years. The maximum closure period for other documents and records should be 20 years, and after the expiry of the 20-year closure period, these documents and records must be made available for public access.

Apart from this, after making reference to the relevant practices of overseas jurisdictions, as well as the views put forth by Members and the public, the CROp proposes to set up a committee titled the "Committee on Access to the Legislature's Documents and Records" (the Committee) under the Legislative Council. The Committee is responsible for dealing with access requests to closed documents and records and matters relating to the policy on access to information. The membership of the Committee should be broadly representative of that of the Council, which should also be consistent with the role of the President and the Clerk to the Legislative Council in keeping documents and records of the legislature. Hence, the CROp proposes that the composition and size of the membership of the Committee should be modelled on those of the Legislative Council Commission, with the President being the *ex officio* chairman. The CROp also proposes to authorize the Clerk to the Legislative Council to undertake declassification reviews and other related duties.

On 28 February, the CROp consulted the House Committee on the abovementioned issue. The House Committee agreed with the relevant proposals and amendments to the relevant provisions in the Rules of Procedure, which include:

- (1) a new Schedule 2 to set out the Policy on Access to the Legislature's Documents and Records with a view to adopting the maximum closure periods and periodic declassification reviews;
- (2) a new Rule 74A to provide for the appointment of a Committee on Access to the Legislature's Documents and Records;

- (3) a new Rule 6(5A) to provide for the Clerk to the Legislative Council to conduct the reviews specified in the policy; and authorize the Clerk to the Legislative Council to deny access to documents and records in accordance with the guidelines drawn up by the Committee on Access to the Legislature's Documents and Records.

I will now present my views on the proposed resolution. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the arrangement. We consider that the establishment of the mechanism will facilitate the general public in need in requesting access to the relevant documents, thus the DAB supports this resolution.

I so submit. Thank you, President.

Mr TAM Yiu-chung moved the following motion:

"RESOLVED that the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended as set out in the Schedule.

Schedule

Amendments to Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region

1. Rule 4 amended (election of President)

Rule 4(1) —

Repeal

"the Schedule"

Substitute

"Schedule 1".

2. Rule 6 amended (duties of the Clerk)

After Rule 6(5) —

Add

"(5A)(a) The Clerk shall conduct the review referred to in paragraph (b) of the Policy on Access

to the Legislature's Documents and Records in Schedule 2 within 25 years of the existence of the document or record as to whether access should be made available at an earlier time, and to conduct a further review of the document or record, if not already made available for public access, at least once every four years from the last review.

- (b) The Clerk may deny access to a document or record in accordance with any guidelines set by the Committee on Access to the Legislature's Documents and Records."

3. Rule 74A added

After Rule 74 —

Add

"74A. Committee on Access to the Legislature's Documents and Records

- (1) There shall be a committee to be called the Committee on Access to the Legislature's Documents and Records to —
 - (a) determine that a document or record of the Legislature (or its committee) should be made available for access earlier than the expiry of the closure period specified in paragraph (a) of the Policy on Access to the Legislature's Documents and Records in Schedule 2;
 - (b) set guidelines for implementing the Policy;
 - (c) consider any objection against the denial of access to such a document or record by the Clerk under Rule 6(5A)(b) (Duties of the Clerk); and
 - (d) consider any other matter relating to or arising from the Policy.
- (2) The committee shall consist of —
 - (a) the President, who shall be the chairman;

-
- (b) the chairman of the House Committee, who shall be the deputy chairman;
 - (c) the deputy chairman of the House Committee; and
 - (d) not more than 10 other members who shall be elected at a House Committee meeting in such manner as the House Committee may determine.
- (3) The term of office of the elected members shall be one year or until the next House Committee meeting held for the election of members, whichever is the earlier.
 - (4) The chairman and three other members shall constitute a quorum of the committee.
 - (5) In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence.
 - (6) All matters before the committee shall be decided by a majority of the members voting. Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall give a casting vote.
 - (7) The committee shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members at least three days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.
 - (8) Meetings need not be held in public unless the chairman otherwise orders in accordance with any decision of the committee.
 - (9) Where the chairman so orders, any matter for the decision of the committee may be considered by circulation of papers to the members of the committee and each member may signify his approval in writing submitted to the chairman. If a majority of the members so signify before the expiry of the period specified by the chairman for

the purpose, and if upon expiry of that period no member has (in writing submitted to the chairman) signified disapproval of the matter or requested that the matter be referred for decision at a meeting of the committee, it shall be deemed to be approved by the committee.

(10) The committee may make such reports as it considers appropriate to the Council.

(11) Subject to these Rules of Procedure, the practice and procedure of the committee shall be determined by the committee."

4. Schedule amended

(1) The Schedule —

Renumber the Schedule as Schedule 1.

(2) Schedule 1, Annex I, paragraph 1 —

Repeal

"the Schedule"

Substitute

"Schedule 1".

5. Schedule 2 added

After Schedule 1 —

Add

"Schedule 2

[Rules 6 & 74A]

Policy on Access to the Legislature's Documents and Records

The documents and records of the Legislature (and its committees) in the custody of the Legislative Council Secretariat may be made available for access subject to the following —

- (a) if the Legislature (or its committee) considers that any of its documents or records should not be made available for access or prescribes a period for which it should not be made so

- available, access to the document or record may not be made available until the prescribed period has expired or it has been in existence for 50 years, whichever is shorter;
- (b) any such document or record may be made available for access before expiry of the closure period specified in paragraph (a) consequent to a review;
 - (c) any other document or record of the Legislature (or its committee) may be made available for access at any time but must be made so available when it has been in existence for 20 years; and
 - (d) access to any document or record or any part of it shall not be made available if such access is prohibited by law."

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

MS CYD HO (in Cantonese): President, I strongly support that the Legislative Council should allocate resources to employing professionals to handle the records of this Council. In fact, the records of the Council are relatively comprehensive, so comprehensive that certain government departments will conversely request document copies from us. We notice these phenomena at certain meetings. However, President, it seems that the views we had expressed at the Legislative Council Commission (LCC) have not been fully reflected in the relevant amendments submitted now, particularly those in Schedule 2. Regarding the views we had discussed, it is mentioned in Appendix I to LC Paper No. CROP 53/13-14 that the Secretariat had consulted Members and a majority of the Members agreed that unclassified records be open 20 years after creation and classified records be subject to review for declassification within 25 years after the publishing of the final report by the relevant committee unless disclosure is prohibited by law. Classified records are to be declassified after passing the declassification review, and records which remain to be classified after the declassification review will be reviewed again every four years. All classified

records are kept closed for a maximum of 50 years. In fact, I did ask at the meeting of the LCC why records had to be kept closed for such a long period of 50 years. Certainly, my opinion is in the minority, and that is it. I respect the mechanism for the minority to follow the majority.

However, under item (a) of the newly added Schedule 2, it is mentioned that the closure period should be the prescribed period or 50 years (whichever is shorter), but the arrangement to do the review again every four years is not mentioned. In Schedule 2, only two periods are mentioned, one is 20 years and the other is 50 years. Some of my friends are very much concerned about the law on archives. Regarding the amendment of the Rules of Procedure by the Legislative Council, they held high expectation at the beginning. However, they reminded me that I must speak to state that the periods mentioned in Schedule 2 fail to fully reflect the outcome of the initial consultation of Members' views. Hence, President, I must speak here for the record. When requests for access to records are made in future, and when the Secretariat or the Committee in future refers only to the criteria in items (a), (b) and (c) in Schedule 2 as the reason for refusing the declassification of certain records, Members must check against Appendix I of the paper I mentioned just now, in which the views of the majority of Members expressed at the consultation are recorded. In future, if a discussion on the declassification of certain records with the Secretariat is required, that paper may serve as alternative reference which provides an additional basis for reference.

Thank you, President.

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

MS EMILY LAU (in Cantonese): President, I rise to speak in support of the motion proposed by Mr TAM Yiu-chung. I very much agree with the views expressed by Ms Cyd HO just now. President, first of all, we thank the Secretariat for employing professionals to manage the records of this Council and consulting the public, professionals and Members, and so on, in a detailed manner on the work in facilitating access to records and information. We hope that the present outcome is acceptable to Members. We hope that the public will request the relevant information to understand the content of this policy and that people

will make full use of the new measures proposed to request the records concerned.

We understand that the workload of the Secretariat is very heavy, yet they have undertaken to process these public enquiries within a reasonable time frame. According to the information we have, upon the receipt of an enquiry, the Secretariat will issue an initial reply to the enquirer within a seven working days, and it will give a detailed reply within 21 working days in general. In case of any problem, the public may lodge an appeal. President, the details of the mechanism have been laid down. The Committee mentioned by Mr TAM Yiu-chung earlier will be established later. If the requests for access to records made by the public are rejected or if the public have any queries, the Committee will conduct investigation. We hope that the framework as a whole will be appreciated by local academics and various sectors, and that they will put forth more views. We also wish to encourage the public to use the mechanism. Certainly, we have noticed the remark of the Secretariat that they will not handle requests considered unreasonable. Yet, we believe that the Secretariat will process general information access requests in a suitable manner.

We hope that other public organizations will follow the legislature in forming a comprehensive policy in this respect. They should encourage the public to request information, state clearly which information will be exempted and which will be declassified upon the expiry of the closure period. I agree with Ms Cyd HO's proposal on conducting the review again every four years, and I believe Mr TAM will respond to this later, for I am afraid he is not quite familiar with this. However, we would like to follow up on this with the Secretary General after the meeting, for it is the understanding we gained in the discussion at the meeting. President, we hope that unclassified records will be opened 20 years after creation, whereas classified records will be subject to declassification review 25 years after its creation. For records remaining to be classified after the declassification review, a review will be conducted again every four years. The maximum closure period for all classified records is 50 years. We hope that the arrangement will follow this direction. If necessary, I believe the Legislative Council Commission will follow up and rationalize the mechanism as a whole, which is acceptable to Members. I hope that the arrangement under the amendment to the Rules of Procedure today will be implemented as soon as possible, so that the public may make more access requests for information to the Legislative Council to try out this mechanism and

see whether the mechanism works smoothly. We also hope that the executive will draw reference from our practice to develop a comprehensive approach of its own to provide access to information for the public.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon Mr TAM Yiu-chung to reply.

MR TAM YIU-CHUNG (in Cantonese): President, first of all, I would like to thank the two Members for speaking on the Resolution. Subject to the Resolution passing, the Legislative Council will set up the "Committee on Access to the Legislature's Documents and Records" (the Committee) and will empower the Committee to take charge of dealing with matters relating to the access requests to documents and records of the legislature made by the public. I believe the Secretariat will definitely convey the views and concerns expressed by the two Members today to the Committee for consideration. Regarding the requirement of a review to be conducted within 25 years for classified documents and a further review to be conducted at least once every four years, it is stipulated under the new Rule 6(5A) and the details are in Schedule 2 to the motion. Members can rest assured that this will be addressed.

With these remarks, President, we hope Members will support my motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr TAM Yiu-chung be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority 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): Fourth Member's motion: Motion under the Legislative Council (Powers and Privileges) Ordinance.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon Ms Claudia MO to speak and move the motion.

MOTION UNDER THE LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE

MS CLAUDIA MO (in Cantonese): President, what happened to LI Wei-ling is a story that has greatly blackened the chapter of freedom of the press, freedom of speech and freedom of expression in Hong Kong. We in the Legislative Council are duty-bound to clearly find out what role the Government has played in the entire incident. Was there any suppression? Was it indirect or direct suppression? Was there any distinction between black and white? LI Wei-ling stated vociferously and expressly at the press conference that she was sacked for reasons relating to the renewal of the licence of Hong Kong Commercial Broadcasting Company Limited (Commercial Radio) — of course, she has reasons to believe so — because Commercial Radio has "knelt down".

Regarding this story about the pressure of licence renewal, some people questioned why her account of the incident should be taken as the true story. But there was a precedent. During the Chief Executive Election in 2012, the other candidate, Henry TANG, stated loudly and expressly in a Chief

Executive Election debate that back in 2003 when the renewal of Commercial Radio's licence was considered, the then Convenor of the Executive Council, LEUNG Chun-ying, suggested at a meeting of the Executive Council that the term of Commercial Radio's renewed licence be reduced. So, there was this precedent in the past. Some people said that this is still a far-fetched interpretation of the actual situation meant to suit an argument, but history is made up of many chance occurrences. Had there not been these disclosures, we would not have felt concerned and even worried about this.

Of course, it was inappropriate for Henry TANG to make those remarks during the Chief Executive Election. Is it not that the discussions of the Executive Council are subject to the rule of collective confidentiality? In its rejection of a free television licence application, the Government has been headstrong in refusing to reveal the actual reasons or the findings of the consultancy report on the ground of upholding confidentiality, but why did Henry TANG make those remarks? In Communication Studies there is this principle of "public interest override". Of course, he must have thought that "public interest" suddenly emerged only in that election debate forum and that was why he did make the disclosure before that. Was there any sequel? Did anyone go after Henry TANG, telling him that what he had done was inappropriate? No. It turns out that the so-called "collective confidentiality" applies as one likes or anytime when one thinks fit, and it does not apply if one thinks otherwise.

(THE PRESIDENT'S DEPUTY, MR RONNY TONG, took the Chair)

In any civilized society there must be the separation of powers whereby the executive, the legislature and the Judiciary are independent of each other while exercising monitoring and checks and balances on each other. The press is the fourth estate and should be independent of the executive, the legislature and the Judiciary. Therefore, in order for freedom of the press to be seriously discussed in the Legislature Council, where should it be discussed? For issues relating to television or radio, they have to be discussed in the Panel on Information Technology and Broadcasting which oversees IT matters. For issues involving the press, freedom of the press, human rights, and so on, they have to be discussed in the Panel on Constitutional Affairs, for freedom of the press is a right of the community, a human right, which should be handled

separately without being subject to government interference. Of course, we also have the fifth estate now, that is, online news media, but this is another issue.

In principle, even the Legislative Council should be separated from the press, and they should be independent of each other. But in Hong Kong, we all know that we do not have true democracy, still less true universal suffrage — now that we are still fighting for it — This Legislative Council and the press in Hong Kong have a major goal in common, that is, to monitor the Government and to monitor the executive. Certainly, the press also has to monitor the legislature, which is another duty of the press. The reason for drawing a line or a dividing line between the legislature and the press is that — there should be this division in the first place — According to my understanding, some time ago the Hong Kong Journalists Association (HKJA) organized a large-scale assembly on the dismissal of LI Wei-ling and even though this assembly was openly declared to be organized by the HKJA, should Members from the democratic camp give a speech or say something on the stage? As far as I understand it, even the HKJA was a bit hesitant about it, because this would be like the press and the legislature co-operating with each other, which is not right.

Therefore, I must clarify one point. While I have now proposed to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to inquire into the incident of LI Wei-ling, I must say that the allegation that this is an instance of "the press colluding with the legislature to overthrow the executive" is entirely unfounded. It is because in Hong Kong, it is no more than a joke to say that the legislature is independent and completely representative of the people's opinions. Nowadays, this electoral system of ours has entirely failed, and all that we can really find here is empty talk. If you have something to say, you can certainly say it, but after you have said it and the government officials heard it, the Government's attitude will simply remain the same.

When we emphasize freedom of the press and propose the conduct of an inquiry by the Legislative Council, we are targeting the Government, not any press organization. What we are most worried about is not our inability to conduct checks on a broadcaster or any press organization at the level of the legislature. We are only worried about the media doing a lot of things out of self-censorship. Nobody would enjoy self-censorship. Nobody would set up a radio, a television station or a newspaper and then feel very happy to exercise self-censorship on himself unless he is a fool, right? Nobody will do such a thing. When an organization exercises self-censorship, a major reason is that it

is under enormous pressure from the government and to put it plainly, it all boils down to gains, political gains.

However, it is difficult to prove self-censorship, for no one will come forth, thumping his chest and stamping his feet and then telling you, "Yes, I am exercising self-censorship. I am so sorry about it." Nobody will say so. And, it is very easy for self-censorship to hide behind editorial independence. "Do not come to me. This is my newspaper, my radio. I have editorial independence and this is my decision. If you do not like it, this is a commercial society and you can choose not to tune in to us; you can choose not to watch us and not to patronize us. This is a choice of the people." But what do we wish to find out in proposing the conduct of an inquiry by invoking the P&P Ordinance? Let me say it once again. What we wish to find out through the inquiry is whether such a special, unusual commercial act and internal management issue of this commercial organization named Commercial Radio is, in the final analysis, attributed to pressure from the Government.

I reiterate that it is impossible for the Legislative Council to conduct checks on any news organization, or perhaps I should not use the words "conduct checks". Radio Television Hong Kong (RTHK) is an exception because it is funded by public coffers and it is a public radio, though it is not a public service radio as it is not 100% engaged in public service broadcasting. If it is a public broadcaster and since it operates on public coffers, we can look at the operation of RTHK from the angle of it being a publicly-funded body. As for the other commercial organizations, they enjoy editorial independence indeed. You cannot point a finger at a newspaper and say, "With more than 100 000 people taking part in this year's 4 June night vigil and hundreds of thousand people joining the candlelight vigil in Victoria Park, why did this newspaper not mention a single word about it?" The newspaper will say, "What does it have to do with you? I do not need you to teach me how to report news. I intentionally did not mention it. The 4 June candlelight vigil means nothing to me. This is my editorial independence and an editorial decision of our newspaper." You really can do nothing about it. If you do not like this newspaper, you can refrain from reading it or you can refrain from buying it and stop patronizing it.

We often say that we support the journalists to firmly uphold their principles, that we throw weight behind them, and that we will stand by them, come what may. It is easy to say so. When you are censured by other people and feel pressurized to the extent that you cannot put up with it, you then come

forth, thumping your chest and stamping on feet and saying, "I have been censured by my boss." But after you have said this, imagine who will bear the consequences? After all, it will be the person who is subject to the vetting. This is human nature. The point is a job is at stake here. Assuming an editor in the middle level who makes a monthly income of \$40,000 is at odds with the senior management, and he, therefore, tendered his resignation to his boss, thinking that he can always switch his job, just as a Chinese idiom goes, "if you quit your job with an employer in the east, you will find another job with an employer in the west". The problem is that no one in the west is going to hire you and worse still, no one in the south or in the north will offer you a job either as they are all afraid of you, thinking that you are a troublemaker. They will not hire you in order not to fall foul of you, accusing them of censoring you. Such being the case, where is there a way out? It is commendable that LI Wei-ling decided to really speak up unreservedly, standing up and coming forth to reveal everything. The story of LI Wei-ling is all too familiar to us, but I must recount it here in order for everyone to clearly know about it and also to keep a record for the future.

As early as in May 2011, there was an online radio known as DBC, of which one of the bosses is named Albert CHENG. He wished to recruit LI Wei-ling to his online or digital radio, DBC, but according to the minutes of meetings, someone stated loudly and clearly that the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) has a great aversion towards LI Wei-ling. Perhaps owing to a round of employee poaching that was taking place at the time, in the summer of July 2012, the entire evening programme of LI Wei-ling was transferred to the more popular morning hours but about a year later, LI Wei-ling told us about the dinner with Stephen Chan.

Stephen CHAN said that he had "knocked on the door" of the Communications Authority on matters relating to renewal of Commercial Radio's licence but in vain. Stephen CHAN said that he planned to host the morning programme himself. While LI Wei-ling continued to host the morning programme, she said that her immediate boss, Stephen CHAN, holding a notepad in his hand, commented on and reviewed her work performance almost every day, like making an autopsy report, and he was deliberately nit-picking and always trying to find faults with her. After LI Wei-ling was dismissed with immediate effect, she said directly that people around LEUNG Chun-ying had, in good faith, reminded her to be mindful of her job. And, as to whether Stephen CHAN's

transfer which he made for himself has anything to do with this, we would really have to probe into it in order to find the answer.

On 11 February 2014, the next day after Stephen CHAN transferred himself to another post, LI Wei-ling's contract was terminated with immediate effect, meaning that she was given the sack there and then. The management even asked her not to return to office in any case and told her that her belongings would be packed and sent to her home, which is quite unusual. People who work in the media always keep the raw materials left from their previous news reporting, for these stuffs may be useful in the future. It is most scaring if these materials are handled in a such a manner.

LI Wei-ling made it crystal clear at the press conference the next day on 13 February that she felt 100% sure that her dismissal was the result of the suppression on freedom of speech and freedom of the press by LEUNG Chun-ying's Government and Commercial Radio kneeling down to pressure in connection with its licence renewal. Furthermore, some government officials even told her that she is the person most hated by LEUNG Chun-ying in Hong Kong. Insofar as this incident is concerned, if we let such news vanish into thin air, we would not be able to explain ourselves to history.

Thank you.

Ms Claudia MO moved the following motion:

"That this Council appoints a select committee to inquire into the immediate termination of the contract of Ms LI Wei-ling, a radio host of Hong Kong Commercial Broadcasting Company Limited (Commercial Radio), and the alleged political interference by the Hong Kong Special Administrative Region Government with the editorial independence of Commercial Radio; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, the Government of the Hong Kong Special Administrative Region (SAR) opposes this motion proposed by Ms Claudia MO today under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance).

On 12 February this year, Hong Kong Commercial Broadcasting Company Limited (Commercial Radio) announced the termination of the employment of a radio host, Ms LI Wei-ling, with immediate effect. After this announcement was made, views have been diverse in society. Subsequently, Ms LI Wei-ling openly expressed her own views on her dismissal, while Commercial Radio also made an official response on 14 February.

The SAR Government and the Communications Authority (CA) have all along respected the editorial independence and freedom of speech of broadcasting organizations. We will not interfere with the editorial principles and daily operation of broadcasting organizations, including the choice of programme contents, their schedules, and changes in radio hosts, and it is inappropriate for the Government to make comments on the internal staffing decisions of broadcasting organizations. But strangely enough, Ms Claudia MO seemed to have mentioned a lot about the internal operation of media organizations and made a lot of comments today, and it appears that she has failed to see whether such an act is questionable insofar as this incident is concerned.

The Chief Executive, the Secretary for Justice and I myself have openly made serious clarifications to some entirely unfounded allegations against the SAR Government in this incident. The Chief Executive has reiterated that he himself and the SAR Government respect and are committed to upholding freedom of the press, and that neither the Chief Executive himself nor the SAR Government has mentioned to anyone any matter relating to the post or duties of Ms LI Wei-ling in Commercial Radio. Neither the Commerce and Economic Development Bureau, being the Policy Bureau responsible for broadcasting matters, nor I myself, being the Director of the Bureau, has exerted pressure on Commercial Radio, the management of Commercial Radio and radio hosts of Commercial Radio.

We have noticed that Commercial Radio pointed out in its response that this staffing decision has nothing to do with the renewal of its sound broadcasting licence, the application for which has yet been submitted. According to the

terms of the licence, Commercial Radio shall submit an application for licence renewal to the CA no less than 24 months before the expiry of the current licence period. If Commercial Radio has the intention to apply for a renewal of its licence, it is required to submit an application to the CA before 25 August this year. The CA has not received its application for licence renewal and the procedures for processing the renewal application has not started in the first place. That some people have linked this incident with the processing of the renewal of sound broadcasting licence and even the freedom of the media is indeed incomprehensible and regrettable.

Regarding this staffing decision of Commercial Radio, the radio host in question has told of her feelings and what she has heard, whereas the relevant personnel of Commercial Radio have also given responses. We consider it impractical to follow up unfounded allegations made simply on the basis of feelings and conjectures, as this would only result in wastage of time and efforts of the Legislative Council and the Government. Worse still, should the Legislative Council invoke the P&P Ordinance to interfere with the staff management of the organization concerned, it would seriously interfere with the internal operation of a media organization, hence setting an extremely bad precedent. Therefore, we consider it unnecessary and inappropriate to invoke the P&P Ordinance. For this reason, the SAR Government opposes Ms Claudia MO's motion.

Deputy President, I will first listen to Members' speeches and provide supplementary information, if necessary.

Thank you, Deputy President.

MS EMILY LAU (in Cantonese): Deputy President, I rise to speak in support of Ms Claudia MO's motion.

Last Thursday, I attended the Thursday Monthly Luncheon of the Executive Council held at Mandarin Oriental Hotel. I wonder if you, Deputy President, has ever attended it before. I did not arrive too early almost every time I went there and so, I would usually sit at the table near the entrance. On that occasion, almost all the tables were full when I arrived, though they managed to find a seat for me eventually. This time, I sat at the same table as Mr George HO, the boss of Hong Kong Commercial Broadcasting Company Limited

(Commercial Radio). I, therefore, said to him, "Your radio always goes crazy whenever your licence is due for renewal", meaning that something always happens.

Deputy President, why should the Legislative Council conduct an inquiry into the dismissal of LI Wei-ling? Is it that we must conduct an inquiry whenever a member of the broadcasting industry is dismissed? I think everyone knows that this is not the case. LI Wei-ling is an icon. Known for her biting comments, she is even described by government officials as cynical and mean. I think some listeners may not like this description of her but her programme is popular among many listeners. So, many members of the public have conveyed to me their great discontent over her transfer and even her subsequent dismissal, and these people have since stopped tuning in to the programmes of Commercial Radio because they think that what Commercial Radio has done is very bad.

I think Members will recall what happened that day. Even if she had to be dismissed, she should not be dismissed with immediate effect, and she was even not allowed to go back to her office to pack her things up, with someone else sent to pack her belongings and had them sent to her instead. What are Mr HO, Winnie YU and even Commercial Radio up to? What mistake did she make? After all, she has served Commercial Radio for many years and according to her, she has worked there for almost a decade. Why should they be so heartless and merciless as such? So, this has really made people speculate if there is any untold story behind this and that this may not simply involve her relationship with Commercial Radio.

The next motion debate is all the more related to this, and some members of the media were also attacked today. I would say that the media in Hong Kong is in extremely great fear as we can hear news about this person being assaulted and that person being attacked or that newspaper being intruded and attacked. Some people asked what it has to do with the Government. I would ask conversely why this has nothing to do with the Government. Let us listen to what WONG Yan-lung has said. When incidents of media workers, well-known people, celebrities, or people who act in a high profile being victimized have occurred over and over again and when the Government can do nothing at all, the message being put across is: Do whatever you like.

Seeing so many of these cruel incidents, LI Wei-ling should perhaps congratulate herself in private for being lucky to be safe and sound so far. But

as she was abruptly dismissed and treated so rudely, it is only natural for the public to ask Members to probe into what happened. If there should be another radio host who, like her, dreads not neither the Government nor Beijing and who dreads not the consortiums and dares to make accusations but may again be silenced in the end, what will become of Hong Kong?

Therefore, even though some Members may put forward some weird arguments later on, this is indeed an issue of grave concern to many Members, and some members of the public have asked us to investigate the incident. To conduct an inquiry, certainly we should first ask a representative of Commercial Radio to come here, so that we can ask him or her why they would do such a thing. Indeed, Commercial Radio still owes LI Wei-ling and the public an explanation, as they only sent a manager who is a nobody to give an explanation of a few lines without answering questions. This is quite the same as the Government's practice as government officials will often just make a few remarks and then take to their heels. For such a major incident, it is reported not only in Hong Kong but also given quite extensive coverage overseas. Is there nothing else worth reporting by overseas media? They have reported it certainly because they consider it a big news story, and this incident has grabbed the news headlines not only because LI Wei-ling was sacked immediately but because it has sounded the warning that freedom of the press and the freedom of speech in Hong Kong are once again shaken. This is precisely the reason why the international ranking of freedom of the press in Hong Kong has plunged continually.

Therefore, the SAR Government absolutely have responsibilities. Of course, the Secretary may argue that he did not do or say anything and questioned whether we have evidence. But sometimes, one can really kill someone without doing anything. There is another case in which a Miss Jenny NG came forth to say something on the consultancy report compiled by herself and ended in being sacked or whatever, and she is even engaged in a lawsuit now. The Secretary may see nothing wrong with it as he did not do anything. Perhaps we should really find the evidence and you, Deputy President, being a member of the legal profession, certainly give great weight to arguments such as where the evidence comes from and the need for evidence in black and white, witnesses, or other proof.

So, under the current situation, Hong Kong needs people who are willing to come forth and speak up. It is because with regard to the many things that have happened, I do not think they happened really without anybody knowing anything

about them. These whistleblowers will tell of what they know and they will come to the Legislative Council to voice out. Of course, I think this motion will not be passed and so, I think no inquiry will be conducted. But I believe that when things have developed to a certain stage, and when you know something which is not to the knowledge of other people and when you see with your naked eyes that some people are telling lies, that will be the time to step forward bravely. Otherwise, everything that we cherish in Hong Kong will be eaten into and shrink unceasingly.

Every day I hear people say that they want to emigrate and I think you, Deputy President, must have heard of this quite often too. In fact, whether or not to emigrate is the freedom of Hong Kong people, but why do they want to emigrate? Particularly, quite a number of these people are intellectuals and middle-class people. It is because they feel helpless in the fight for freedoms and they do not see hope and so, they must pursue happiness elsewhere for the sake of themselves and their families. However, we think that for those people who stay behind, even if they do wish to emigrate, they should put up a fight for Hong Kong so long as they are still here, fighting for and cherishing the way of life that we aspire for. With the departure of LI Wei-ling, the programme is now hosted by Stephen CHAN. I wonder if you, Deputy President, has listened to the programme hosted by him.

What the public would like to listen to is commentary programmes that hit the nail on the head. Government officials should try to be more cheeky and as they have taken up these posts, they should be psychologically prepared for comments and criticisms. The problem is why these things occurred coincidentally when the renewal of licence is due. Many people can understand this suspicion of "Wei Ling". As Ms MO said just now, what allegations did Henry TANG make against LEUNG Chun-ying? He is now the Chief Executive and I wonder how he is going to handle it, and I think Commercial Radio's licence renewal will keep us busy for a while in the future. I do not mean that we will be vetting and approving its licence renewal application. What I mean is that if the Executive Council and "one single man" have handled it unsatisfactorily, the Legislative Council will eventually have to follow it up, and a big fuss will then be kicked up over this. This is exactly why we are greatly dissatisfied with how the renewal of licence is handled and I am afraid the absurdity is beyond compare.

Moreover, whether in the case of LI Wei-ling or that of Ricky WONG, what is most enraging is the lack of competition. If there are numerous channels to provide sufficient choices for the people, no problem would have arisen. But that is not the case in reality. Be it television stations or radios, the choices are so shamefully limited. Hong Kong claims itself to be a cosmopolitan and keeps talking about competitiveness and yet, things have developed to such a sorry state. The problem lies mainly in the lack of competition. If more people can express their opinions and the listenership can be enlarged, the public would not feel so upset and agitated.

So, even if this motion is not passed, I still have to call on Mr HO to come forth to explain why Commercial Radio has to do this. What they have done will actually send a chill down the spine of his employees because an employee who has worked very hard for the radio for a decade could be dismissed all at once, and this, I think, is really terrible. The SAR Government will certainly say irresponsibly that there is no evidence. Here, I hope that people who know what actually happened will come forward bravely and give us the information and papers in their hands because we are really in deep water now. I hope we can all work in concert to defend the freedom of expression, freedom of the press and freedom of speech which are cherished by us all, and I call on them to provide more relevant information.

"Wei Ling" has already said that she is willing to give evidence in the Legislative Council and she is willing to co-operate if an inquiry will really be conducted, though this still depends on the position of Honourable colleagues. We hope that Members, including Members of the pro-establishment camp and the pro-government camp, will understand that what we are discussing now is not purely the dismissal of LI Wei-ling, but also why this place of Hong Kong which is long known as a free society cannot even accommodate a LI Wei-ling. Is this not ridiculous? When voices are silenced one after another, what should we do? How can Hong Kong hold its head high in the international community?

Some people may say, "Emily LAU, are you not voicing out now?" Yes, it is true that I am. But I am afraid these comments made by us will gradually fade out from news reports and by then, would you feel very happy about it? When everyone in Hong Kong is singing praises of grand achievements and praising Gregory SO for his well-built stature and brilliant talents and paying tribute to XI Jinping for his achievements in winning universal acclaim for China,

are these reports most welcomed by the people? Please do not force people to speak against their conscience.

Therefore, Deputy President, I hope Members will support this motion proposed by Ms Claudia MO. Even if this motion was not passed, I still hope that people who know the inside story can step forward bravely to do justice to Hong Kong and LI Wei-ling.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, I speak in support of Ms Claudia MO's motion which proposes to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to inquire into this incident of Hong Kong Commercial Broadcasting Company Limited (Commercial Radio).

In fact, whether we support this motion depends on whether we attach importance to freedom of the press and freedom of speech. I believe we all understand that the press sector is now facing two kinds of threats. One is from money and the other from violence. In respect of violence, I believe Members will still recall the incident of Kevin LAU being stabbed six times, and I will make comments on it later.

The LI Wei-ling incident under discussion now certainly boils down to money. It is a matter of money, though it is to a certain extent normal for Commercial Radio to wish to have its licence renewed. But behind the reason of money, did the Government also step in and give it a kick? If it did, this will turn out to be the Government making use of public powers to exert pressure on a commercial organization, resulting in the dismissal of LI Wei-ling.

Some people will say that this is all my personal opinion and ask for evidence. Certainly, if we attach importance to the freedom of the press and freedom of speech, then we must carry out an investigation whenever there is this allegation or possibility. In fact, there is *prima facie* evidence. First of all, the most obvious *prima facie* evidence is that LEUNG Chun-ying had said before that it would be best not to grant too long a licence tenure to Commercial Radio upon renewal of its licence. Why did LEUNG Chun-ching do that? He certainly wanted to control the media. But that was many years ago. However, I am explaining why there is *prima facie* evidence and I am trying to analyse how things have gradually developed and resulted in the incident of the dismissal of LI Wei-ling. The first point is that history can prove that LEUNG Chun-ying

considers Commercial Radio an eyesore. The second point is that as LI Wei-ling has said, a person around LEUNG Chun-ying had warned her that her job was at stake, and that eventually came true as LI Wei-ling was dismissed. Why should that person warn LI Wei-ling in the first place? If that person could give this warning to her, I think this person must know something about the inside story. So, this is the second piece of *prima facie* evidence.

The third piece of *prima facie* evidence is a fact too. The fact is: LI Wei-ling could at first escape the fate of dismissal as she was only transferred to host a programme at a different time slot. Concerning her transfer to a different broadcasting slot, I think we already found it strange. But LI Wei-ling had put up with it, saying that she would fulfil her duties faithfully. So, I think Commercial Radio had already planned to force her departure at that time. This is all too clear to people like us who often deal with labour disputes. We know that before an employer dismisses a worker, he will first force the worker to resign on his own initiative. This is all beyond doubt. How will any employer be willing to take the initiative to fire an employee? No employer will do so. Therefore, it is obvious that Commercial Radio already intended to fire her at that time. But Commercial Radio did not wish to do so on its own initiative and hoped to make her resign of her own accord by all means, just that she did not plan to do so. Subsequently, LI Wei-ling said that if we wish to conduct an inquiry, she will be willing to come forth to give evidence. No sooner had she been transferred to another broadcasting slot than Commercial Radio began to be nitpicking, accusing her of making improper remarks or performing badly. In fact, to the management, it is always just a piece of cake to force an employee to quit. As LI Wei-ling was unwilling to resign in any case, Commercial Radio could not wait any longer and finally gave her the sack.

All these happened before her dismissal. Can these be taken as *prima facie* evidence? We can assert that LI Wei-ling, being the mouthpiece of the people, has all along been a thorn in the Government's side. More often than not, even when some issues had not yet come to the attention of other media, LI Wei-ling would speak up for the people affected and while she voiced out for the people affected, she also provided a platform for these people to voice their views at the same time. While she provided a platform for people to voice out, it does not mean that she was unfair because as a public affairs commentator, she would certainly give her own views. But generally speaking, when media workers provide a platform for people to voice out, they actually wish to listen to the views of the two opposing sides. Take the strike of our dock workers as an

example. She provided a platform for the dock workers' union to voice their views and she certainly also wished to hear the views of HIT, just that HIT did not wish to say anything and invariably just issued a statement in response. She had really given us a lot of help back then, for she had provided a platform for the disadvantaged to voice out. When the driving instructors of a driving school went on a hunger strike because their workers' union was subject to discrimination and their union members were sacked, LI Wei-ling eventually provided a platform for them to voice out. Of course, they did go on a hunger strike themselves, but after the incident was brought to light, it was given more ... On the one hand, it was sad because one of the driving instructors had his leg broken after being hit by a car while he was jogging, but on the other hand, after the incident was brought to light and as they had voiced out, the management and the workers' union subsequently started a dialogue. There are many other examples telling the disadvantaged groups that when they cannot open dialogues with officials or people in power, they can find the opportunity to start a dialogue through these platforms. So, this is what I consider most precious about the freedom of the press. Only when there is freedom of the press will there be freedom of speech. Without freedom of the press, people's voices will be silenced and after all the voices are silenced, Hong Kong will no longer be the Hong Kong we know.

A number of Members mentioned earlier that many people have started to talk about emigration. I think most people who plan to emigrate and even people who do not have such plan will say that Hong Kong is no longer the Hong Kong they know, and we all feel sad about this. If Members think that we should cherish freedom of the press and the freedom of speech, then we cannot refrain from investigating this incident. However, we obviously do not have enough votes, as the pro-establishment Members will be pressing the button to oppose the conduct of an inquiry and then they will be arguing that our allegations are unfounded or just as the Secretary said earlier, everything is no more than feelings or conjectures and the conduct of an inquiry would amount to wastage of time and resources. However, I think it depends only on whether we care about this incident. If we care about it, we must do justice to the freedom of the press and freedom of speech, and since a *prima facie* case has been established, why should we not investigate it? The Secretary certainly does not wish that an inquiry be conducted, for it will involve acts of the Government. Did the Government do anything to influence the decision of the commercial organization? As the power to approve licence renewal rests in the hands of the Government, did it exert any influence on the decision of the commercial

organization? This is what we have to find out in the inquiry. The Secretary obviously does not wish to see an inquiry conducted. While there is the common saying of "a thief crying thief", a thief may also oppose actions taken to catch a thief. The Government, of course, does not wish that an inquiry will be conducted. The Secretary said earlier that everything is no more than feelings and conjectures, and so on. But these feelings, conjectures ... Very often, even for cases of corruption, there may not be a lot of evidence in the beginning of the investigation, but so long as you do not conduct any investigation, you will never be able to find the truth; and if you start an investigation, you will have a chance to uncover the truth. We do not only owe LI Wei-ling the truth. We also owe freedom of the press the truth. Our objective is precisely to look into whether any pressure from the Government has influenced the acts of the commercial organization. This is what we wish to find out in the inquiry. If we do not carry out an investigation, these incidents would recur over and over again.

Therefore, I very much hope that this motion can be passed, though I think its passage is impossible. We think that if injustice continues to be concealed, Hong Kong people will feel all the more aggrieved, and as these emotions and feelings accumulate, they will eventually explode one day and by then, the Government will have only itself to blame.

Thank you, Deputy President.

MR CHAN KIN-POR (in Cantonese): I am very grateful to Ms Claudia MO for proposing this motion which enables me to speak on the incident of LI Wei-ling from my personal experience. It seems to be rubbing salt into the wound to speak on the incident of LI Wei-ling now, but I think my personal experience can help Members better understand the incident. I guess what I am going to say today may draw many more unreasonable attacks against me in future, but I have decided to say it all the same.

We always talk about freedom of the press, or we may call it "editorial independence" from another angle. But have Members noticed that in the whole idea of journalism, freedom of the press has a conjoined twin brother called "media ethics"? They are combined to form an integral whole. Where there is freedom, there must definitely be ethics. If we only stress freedom to the neglect of ethics, there will be abuse of power by journalists or worse still, media

hegemony, sooner or later. Journalists have great responsibilities and great powers, and their neglect of media ethics can result in serious problems. According to the "Joint Code of Ethics of the 4 Journalistic Organizations" published online by the Hong Kong Journalists Association, section (1) stated that "Journalists should handle news information with an attitude of seeking truth, fairness, objectivity, impartiality and comprehensiveness. Journalists should strive to ensure accuracy of their reports. They should not mislead the public by quoting out of context, distorting facts or twisting original meaning." Many of my friends in the media have maintained these fine traditions but as a matter of fact, only journalists with conscience will abide by these rules on their own initiative. When there are journalists who act in defiance of media ethics, it will be downright impossible for society to exercise monitoring on them because any criticism will be alleged as interference with freedom of the press, which is a heinous crime.

Today, as we discuss the incident of LI Wei-ling, it is inevitable for us to discuss this person of LI Wei-ling and her approach in hosting her programme, because these factors will have a direct bearing on our judgement on the incident. Considering that LI Wei-ling was the host of an important radio programme, I think her style of hosting the programme was biased, and I would even say that her views were one-sided without seeing the whole picture, breaching quite a lot of rules by the standard of media ethics. Some journalists of Hong Kong Commercial Broadcasting Company Limited (Commercial Radio), including front-line journalists and those in the senior management, had rung me up before to arrange for an interview with me. When I expressed concern about whether Commercial Radio would report my remarks impartially, they immediately made a clean break with LI Wei-ling, stating that they belonged to the news department whereas LI Wei-ling belonged to the programme department. They stressed that they are professional journalists and would certainly treat everyone fairly, and they eventually did live up to their words.

However, how can the general public distinguish between the news department and the programme department? Of course, the programme department of Commercial Radio also have hosts who are fair and impartial. Hong Kong people receive information mainly through various media channels. Journalists are in control of a social instrument. Apart from monitoring the Government, it is also a very important function of the media to provide the facts, in order for the public to fully grasp the truth and then make a response to various developments in society. Therefore, if the media provides information

selectively or makes biased comments, the public will definitely be affected and hence respond differently.

Let me cite a recent example to illustrate this point. Last month, there was an incident in which the tourists on a cruise liner refused to disembark. LI Wei-ling's assistant called my office asking me to comment on the compensation issues relating to cruise insurance in LI Wei-ling's programme. In reply to her assistant, I said that as there was not much time left before her programme going on air and as cruise insurance was rather specialized, I would need time to get hold of the details of the policies underwritten by different insurers in order not to mislead the public. I, therefore, suggested that I would refer an expert on cruise insurance for them to do the interview. Then I immediately contacted the Hong Kong Federation of Insurers, asking them to arrange for an expert to do an interview with Commercial Radio. Although the Federation could not arrange for an expert for the interview, a written reply was provided and her assistant was also notified by phone. Recently, her assistant confirmed to me that the written reply had been given to LI Wei-ling. The Federation also informed me that the written reply was actually provided to other media organizations in Hong Kong as well. Subsequently, I was busy making enquiries with various experts about the differences in compensation while providing answers to enquiries from the media.

Later, *Ming Pao Daily News (Ming Pao)* also reported the information provided by me. I have with me now a news report and as Members can see, *Ming Pao* has made quite a long report on this incident. *Ming Pao's* report outshone others in that apart from reporting the views of members of the insurance industry, they also took the initiative to glean information from the websites of various insurance companies and so, they made a very comprehensive report. LI Wei-ling's remark that the insurance industry did not give a response in respect of this incident is incorrect. Regrettably, LI Wei-ling did not mention the written reply at all in her programme but only attacked me and the insurance industry, criticizing us for refusing to make comments. A few days later she even passed strictures on us again in her newspaper column. This made me feel that she was not genuinely concerned about the tourists on the cruise liner. Had she been concerned about the tourists, she would have cited from the written reply of the Federation and provided general information on compensation. She did not do that. All she had done was to chide other people for not agreeing to an interview in her programme. This is entirely not reporting facts, but distorting facts.

Indeed, it is very difficult for me to agree that LI Wei-ling is a professional journalist. I only feel that she has made use of the public instrument to serve her own purpose, using the radio and her newspaper column to attack me and the functional constituencies. I have also heard many Members and officials indicate that they would not accept an interview with her because they have had too many unhappy or unreasonable experiences. I always hold that a professional radio host or public affairs commentator can, compared with a journalist, express more independent opinions and even challenge the authority but this must be done on the premise of upholding media ethics. I have been interviewed by Commercial Radio and other radio hosts before and although they put to me equally sharp questions, they could broadly respect the facts and uphold impartiality, thus enabling us to freely speak our minds and clearly express our views. One thing about LI Wei-ling which has given cause for criticism is that she would do all the talking without giving others a chance to speak. It is learnt that even when the interviewees had hung up, they were still criticized by her unilaterally without having a chance to refute her.

Apart from the recent incident of the cruise liner, I have done few interviews with her but I still feel that I am targeted by her. I recall that back in September 2008 — I was elected a Member of the Legislative Council for the first time then but would swear in only in October and so, I had yet officially taken up office, and I did not know very well the operation of the media back then — there was the AIG incident and many media would like to know what actions should be taken by those people who had taken out insurance policies with the company. That was an extremely sensitive issue because the insurance company concerned had 2 million policies and if I provided incorrect information or opinions, it might give rise to a crisis similar to a bank run. So, only the Office of the Commissioner of Insurance (OCI) which knew the company's financial position would be in a position to give opinions. Therefore, I immediately requested the OCI to hold a press conference on that day and the OCI agreed to hold a press conference at five o'clock in the afternoon that day. My office also informed all the media of the press conference and invited their attendance. However, LI Wei-ling arbitrarily attacked me in her programme that day. What is more, she said in her column that my whereabouts could not be located and went further to say that she had to put up search notices to find me. What she said was so cynical and mean that even my relatives and friends were upset on hearing it, and they even asked me why the media would adopt such practices in news reporting.

LI Wei-ling would certainly feel bad about her dismissal by Commercial Radio, but she should take the opportunity to do some soul-searching and learn to be more professional. The most important objective of conducting an interview is to provide accurate and professional information to members of the public and to this end, she should provide sufficient time and details of the questions to the interviewees for them to make preparations, rather than making use of the airwaves and newspaper column to attack other people. In fact, despite her different political views, she should respect the views of other people because the freedom of speech is very important.

I believe this incident of her dismissal has nothing to do with freedom of the press. According to media reports, LI Wei-ling was dismissed probably for three reasons: First, she was on bad terms with her boss and superiors; second, the listening rate of her programme kept falling; and third, LI Wei-ling wanted to switch job and in fact, LI Wei-ling started to host a programme for another radio in no time. Therefore, the allegation of silencing voices is not substantiated as there is still room for her to voice her views in the market. Besides, if it is true that she was at odds with her boss and superiors, even in a media corporation, the lack of mutual trust would make it difficult for them to co-operate with each other any longer in reality. The last point is a falling listening rate. While there is no way to verify this point, I would say that this is within my expectation. I have heard many friends say that while listening to her programme might at first have the effect of sensory stimulation as it was kind of fun to listen to her chiding other people, they gradually found that her programme was invariably pointing an accusing finger at other people. They said that this had given them a very negative feeling and they, therefore, gradually stopped listening to it. So, a decreasing number of listeners is very likely the case. These three reasons may be the truth of her dismissal and so, please do not put the halo of freedom of the press on your head, or else this is only an insult to freedom of the press.

I have spent so much time making an analysis mainly to make it clear that the incident of LI Wei-ling is only a labour dispute or a dispute over personnel matters with more complications. Some people have attempted to link this incident with freedom of the press, suggesting that the incident has to do with the licence renewal of Commercial Radio. Their only objective is to politicize the incident in order to serve their own purposes. In fact, even if there is no LI Wei-ling in Commercial Radio, I do not think the freedom of speech of Commercial Radio will be jeopardized, and the radio hosts of Commercial Radio can still continue to speak their minds freely. I hope LI Wei-ling will

understand that unless she changes her hostile and lopsided attitude, I will not agree to do an interview with her.

I always try to be kind to others in getting along with people and going about things, but I have a deep aversion to people who are deliberately provocative, who have selfish aims and who make use of public instruments for private purposes. It is because there are these people in society that Hong Kong has degenerated amidst attacks and struggles. If, in future, LI Wei-ling no longer writes in any column, I hope society will not lightly link it with freedom of the press.

Deputy President, I oppose invoking the Legislative Council (Powers and Privileges) Ordinance to inquire into this incident because the causes of the incident are already quite clear. I so submit.

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

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, the mass media of Hong Kong are "harmonized" or have been "self-harmonized". It has been constantly claimed in recent years that outspoken media persons have been suppressed or even silenced. The freedom of the press in Hong Kong is doomed as the sky is overcast, swaying in the midst of a raging storm. The moving fingers behind the scenes are very powerful, thoroughly and carefully staged to roughly interfere with various media organizations. The senior management of each organization is required to conduct "self-castration" by requiring all "star talk-show hosts" and "well-acclaimed critics" to quiet down. In addition, the moving fingers have even created white terror by putting some heat on the advertisers in order to curb the source of funds of the media organizations.

Certainly, many Hong Kong people will share the remarks I made just now. We do not have relevant evidence to report the case to the police. As for the things I mentioned just now, the Legislative Council may not have the ability or authority to handle it. However, the purpose of this motion to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) is to find out whether the SAR Government has ever exerted pressure on the Hong Kong Commercial Broadcasting Company Limited (Commercial Radio) to "abruptly fire" LI Wei-ling. This is our point of intervention.

The People Power raised this request during the House Committee meeting, insisting that we have the power to conduct an investigation. During the meeting, we raised the analogy of Andrew LO who, during former Chief Executive TUNG Chee-hwa's era, personally influenced the public opinion programme of the University of Hong Kong (HKU). Although the Legislative Council did not invoke the P&P Ordinance to conduct an investigation, the investigation carried out by the HKU itself found out that Andrew LO's involvement was factual. Now that we have the authority to deal with the LI Wei-ling incident, the only thing that matters is whether we are willing to exercise this power, committing ourselves to shouldering the responsibility. If the Legislative Council has the power to handle a problem and we are not exercising it, the public may suspect that we are trying to shirk our responsibility.

According to the latest World Press Freedom Index released earlier by Reporters Without Borders, the ranking of Hong Kong has fallen from the 18th in 2002 to the 61st this year. Like playing on a children's slide, it is a drop of 43 ranks in just 12 years. It is a siren for freedom of the press. The report revealed that although Hong Kong, Macao and Taiwan have a close relationship with Mainland China, they live under the Mainland threat. Its influence has stretched from economic sector to mass media. Hong Kong, Macao and Taiwan are generally affected by political censorship.

There is an old saying that goes like this, "It is easier to destroy than to establish". The people of Hong Kong have overcome so many difficulties to gradually establish the freedom of the press, of speech and of expression. This has been the core value of Hong Kong, but now it has been completely destroyed by the wire-puller. There are more and more doubts right before our eyes, making us worry that our freedom of speech and of the press are being suppressed. There are more and more Rashomon cases that can only end up with nothing definite, resulting in a further fall in ranking as Hong Kong has gradually lost the credits that it has accumulated. We should take the opportunity to find out whether our worries are justified. This is very important.

Ms Claudia MO mentioned at the beginning of her speech that Mr Henry TANG had mentioned one thing during the Chief Executive Election. He indicated that when discussing licence renewal, the Government had mooted the idea of putting Commercial Radio on its hit list and, therefore, suggested to reduce the number of years of licence tenure to be renewed for Commercial Radio because the two "famous talk-show hosts", namely, WONG Yuk-man and

Albert CHENG, had been constantly criticizing the Government "in chorus". In the end, Henry TANG threatened to resign, enabling Commercial Radio to have its licence renewed for another 12 years as usual. Certainly, nobody would come forth and admit that it is a fact. This incident has naturally turned into another Rashomon case. Nobody can decipher the mystery. Together with other incidents, the credits that Hong Kong has attained from freedom of the press and freedom of expression of the media are gradually deducted to result in a further slide of our ranking.

The person who put Commercial Radio on the Government's hit list has now become the Chief Executive. The licence of Commercial Radio will expire in 2016 and it arouses public suspicion that Commercial Radio may again have to do "something" in the face of LEUNG Chun-ying's pressure if it wants to apply successfully for a renewal from LEUNG Chun-ying's Administration. Now, all staff members of Commercial Radio feel insecure. It was reported earlier that departing staff members had to sign an agreement promising not to reveal the details of how Commercial Radio handled LI Wei-ling's case. If a departing employee refused to sign the agreement, he or she would not be given any certificate of service. They would have difficulty finding a new job without it. Did this situation ever happen?

Some people say that the last time was LI Wei-ling, will POON Siu-to or Chip TSAO (whose pseudonym is To Kit) be the next? Anyway, we are very reasonable and fair. The People Power supported invoking the P&P Ordinance to appoint a select committee to investigate the dismissal of LI Wei-ling. Was Commercial Radio influenced by the SAR Government in coming up with such a decision? We are not in any position to "prop up" LI Wei-ling. I personally do not know LI Wei-ling. There is no contact between us. Nor has she ever interviewed me. The People Power has been subject to LI Wei-ling's biased criticisms. The complaint which we lodged against her was substantiated. This time we support invoking the P&P Ordinance because we "focus on issues instead of making it personal".

I wish to respond to the matters mentioned by some Members in their speeches. The point does not lie in whether LI Wei-ling is a good person or not. An Honourable colleague pointed out the good deeds she has done — certainly she has done some good deeds. Another Honourable colleague pointed out the bad things she has done — certainly she has done something bad and she may not necessarily be kind-hearted. But these are irrelevant. Should we adopt

different attitude towards the same incident depending on whether the victim is a good person or a bad person? If the victim is a good person, we support an investigation; if the victim is a bad person, we claim that no investigation is necessary for he deserves it? We should not support invoking the P&P Ordinance on the ground of how many good deeds she has done or how many people she has helped. Should we say that no investigation is necessary because she has done bad things and resorted to sophistry? We should not oppose the motion on this basis.

I can be described as a person growing up in radio stations. My first employer is Commercial Radio. I have been under the employ of two commercial radio stations. I often reflect on some issues: Are famous "radio talk-show hosts" not to be dismissed? Once they have been hired, are they supposed to be hired for life? Are they the predominant and most influential? Famous radio talk-show hosts are really influential. The programme producers are in name only. They are essentially assistants only. Famous "radio talk-show hosts" will simply ignore their requests. I do not mean to target at anyone. I just think that famous "talk-show hosts" always behave in such a manner. Perhaps you may think my conclusion is that famous "talk-show hosts" cannot be fired. When working in Commercial Radio years ago, I thought that the structure of Commercial Radio was very, very stable and no change was needed for the "dream team" comprising "Taipan", CHA Siu-yan and "Yuk-man". However, they are no longer hosting programmes in Commercial Radio.

Let us come back to the question: Does the dismissal of LI Wei-ling involve political pressure? Has the SAR Government made use of its power in licence renewal of Commercial Radio to compel the latter to dismiss LI Wei-ling? This is the so-called political suppression. If yes, this will constitute interference with freedom of the press.

I have worked for two radio stations. Members asked this question: Has the senior management of radio station exerted influence on the comments of radio hosts? The answer is certainly in the positive. Have you ever heard radio hosts of the Metro Broadcast Corporation Ltd scold the people with surname LI? Certainly not. I have in my programme called on the public to take to the streets on 1 July. But then, I was given a dressing down. So, I called on people to walk on the streets on 1 July from Causeway Bay to Central. The management of the radio station concerned could do nothing though I had a hard time afterwards.

The issue we have to deal with in this incident is that LI Wei-ling has made very serious allegations against Commercial Radio, the Government and even LEUNG Chun-ying at a press conference. We consider an inquiry necessary. Has the SAR Government, through administrative measures, exerted unnecessary pressure on media organizations by means of licence renewal so that media organizations conduct self-castration and keep quiet? This is the issue.

The purpose of conducting an inquiry by invoking the P&P Ordinance is not to give favour to any party. I always say that we have to look at an issue from the opposite perspective. To conduct an inquiry by invoking the P&P Ordinance can actually do a favour to LEUNG Chun-ying so that this Rashomon case can be revealed to all Hong Kong people and the whole world, and all the facts can be uncovered and rational arguments presented. We wish to do justice to all parties concerned. If LI Wei-ling has fabricated a story or exaggerated what has happened by inventing a so-called "middleman", she will make a sorry spectacle of herself when she testifies before the select committee. The public will see it clearly.

(THE PRESIDENT resumed the Chair)

However, as we are Legislative Council Members, I would like to remind everybody that we are not only commentators — after something has happened, we tell the reporters that we are extremely concerned about it and then do nothing afterwards as a ritual. We, as Legislative Council Members, can exercise our power under the P&P Ordinance to conduct an investigation.

After the happening of the LI Wei-ling incident, Ms Rita CHAN, the General Manager of Commercial Radio, who was just a salesperson when I worked as a new recruit in Commercial Radio, has only given a three-minute-long explanation. Can this really be acceptable? Many pro-establishment colleagues — they are not present now and I wonder whether they should be summoned back by ringing the summoning bell — came forth and said that a clear explanation from Commercial Radio was required. Commercial Radio has refused to give an account despite their comments. What would they do? Given that the public do not accept the two-minute-long explanation by Commercial Radio, will Members of the pro-establishment camp accept it? When you intend to vote against the motion or abstain at the vote later on, how

would they face their own comments expressed on that day? On that day, they came forth and told the public that there was a problem, apart from some dubious points in the incident, and Commercial Radio should give a full and detailed account. Even Members of the pro-establishment camp expressed similar views at that time. Now Commercial Radio has given a brief explanation on the incident on the pretext that when two gentlemen stop being friends, they will not say harsh words to each other. It added that as it did not want to stir up a war of words, no question time was provided for reporters. Do we accept such an arrangement?

If we support today's motion on conducting an inquiry by invoking the P&P Ordinance, it will provide an excellent opportunity for us to investigate all the allegations made by LI Wei-ling in a clear and detailed manner at the select committee meetings with a view to doing justice to all parties concerned.

In last year's dispute concerning the free television licence, we said that the Government had operated in a black box. As a result, Hong Kong Television Network Limited's application was not successful. Subsequently, some large consortia withdrew their advertisements in several newspapers. After that, the Chief Executive was accused of making retaliation by refusing to attend the opening ceremony of the Standard Chartered Hong Kong Marathon. In addition, the sudden removal of senior editorial staff by the *Hong Kong Economic Journal* and *Ming Pao Daily News* were regarded as self-castration. In addition, there are incidents like the dismissal of LI Wei-ling and the attack on some media persons. All these incidents have concluded without any conclusion like a Rashomon case. However, many of these incidents are directed at the Government or even the Chief Executive. Many Hong Kong people now say that Hong Kong has died. But I believe even if part of Hong Kong has died, we do not want to see that the cause of death remains a mystery.

I do not agree with the Secretary's remark just now. He said that if an inquiry is conducted, it means that the operation of the media organization concerned will be intervened. We beg to differ. To conduct an inquiry does not mean that the operation of Commercial Radio will be interfered. If ultimately the case is found to be unsubstantiated, this will show that the parties concerned are innocent. I do not mean that Commercial Radio cannot dismiss its employees. If the Government or the Legislative Council does not permit Commercial Radio to dismiss LI Wei-ling, and request an immediate reinstatement of her, then this is an intervention in Commercial Radio's operation.

Through this motion, we wish to invite the parties concerned to attend the hearings of a select committee and explain in detail the reasons of her dismissal. This is absolutely not an intervention in Commercial Radio's operation. If an inquiry into any matter is rejected on the ground that the "inquiry is tantamount to interference with the operation of media organizations" and that the administrative freedom of the media should not be adversely affected ...

In retrospect, I think that the way of handling the issue by Commercial Radio is not wise enough. It is easy to dismiss a staff member without any specific reason. Someone describes LI Wei-ling as a very smart person who has created a political crisis on her own. She is alleged of writing the script and the story step by step so that the whole world and all Hong Kong people believe in her and follow her logic, and Legislative Council Members have also followed her logic. We have not. We propose and support the motion on invoking the P&P Ordinance because we want to find out the truth and do justice to all parties concerned.

In fact, Commercial Radio owes the audience and people of Hong Kong an explanation because it has evaded giving an account of the incident. Some people said that LI Wei-ling is a bad person because they think that the incident involves only an industrial dispute. The incident is certainly related to an "industrial dispute". But even so, it does not mean that no political interference is involved. The incident may be due to the fact that Winnie YU and George HO hate LI Wei-ling bitterly. Similarly, it can also be due to LEUNG Chun-ying's influence on Commercial Radio through an intermediary. Both possibilities are compatible. It is wrong to say that political interference is certainly not involved in an industrial dispute, thus negating the necessity of an inquiry.

I hope Members of the pro-establishment camp, who have expressed that Commercial Radio should give a clear account, will reflect whether the remarks of Commercial Radio — when two gentlemen stop being friends, they will not say harsh words to each other — is acceptable when they vote on the motion later.

MR ALBERT HO (in Cantonese): President, today we have two motions concerning the fact that journalism and the freedom of speech in Hong Kong are under threat. One of the motions is about the attack on Kevin LAU, indicating

that some tough dark forces want to assault and oppress many media workers by means of bloody violence and intimidation.

Regarding the LI Wei-ling incident, it at least indicates that some people have made use of some "soft" powers such as money, authority and position to pose threats to media workers with a view to coercing them to give up their freedom and lose their jobs, thereby creating a chilling effect.

The purpose of today's motion is not to discuss whether LI Wei-ling is a very good, very excellent political commentator who is unanimously appreciated by the audience. Certainly, she has her personal characteristics which are admirable. So, she has become an iconic commentator of the Hong Kong Commercial Broadcasting Company Limited (Commercial Radio). Undoubtedly, some people also have strong opinions about her or even dislike her, hate her and respond in an emotional way at the mention of her.

Mr CHAN Kin-por's speech just now has reflected the views of the audience or public who hold negative opinions of her. But today, we are not concerned about this. We are concerned about the more important cardinal question of right and wrong. Is the dismissal of LI Wei-ling due to the fact that some people have directly or indirectly exercised public power, such as the executive power in licence renewal, to compel Commercial Radio to make a decision on personnel matter in favour of the powers that be? This is a serious problem. Therefore, it is absolutely inappropriate for some Honourable colleagues to take this opportunity to attack LI Wei-ling. Undoubtedly, this is not fair.

Just now, Mr CHAN kin-por spoke in a loud voice to criticize LI Wei-ling. He said that he was unable to talk during an interview by her. She did all the talking. In fact, Mr CHAN has done the same today. Only he can speak today. Only he can attack LI Wei-ling who does not have the opportunity to respond. Only he can talk and no one can respond. It is even more unfair. If LI Wei-ling is criticized for being unfair to the others because she spoke too loud in front of the microphone and snatched the space of airwaves, thereby preventing the others from expressing their views, then it is even more unfair to her today because she is being attacked in this Chamber in her absence. How can this be justified? He has made a lot of criticisms against her. In fact, he should lodge a complaint instantly when he felt being treated unfairly. Furthermore, if she kept scolding people in the airwaves, preventing the others from speaking, would

the audience who were listening to her programme think that she was fair? If she could speak five sentences in front of the microphone, Mr CHAN could speak a couple of sentences, right? If he could, he could criticize her and fight back there and then, right? Therefore, we should not launch any unilateral attack behind her after the incident, especially in her absence.

I do not mean that what Mr Chan Kin-por said is totally "fabricated" or unfounded. I cannot say so because I do not know the circumstances surrounding the incident. But I think after all that this is not an occasion for a unilateral attack. As I said earlier, we should not make any emotional and biased judgment on today's motion which requests an inquiry into the reasons behind the incident by invoking the Legislative Council (Powers and Privileges) Ordinance because of our personal opinion and evaluation of LI Wei-ling.

President, as many Honourable colleagues and I said earlier, LI Wei-ling, as a commentator, is a controversial person because her voice is sharp while her views are critical. Anyone criticized by her will certainly feel uncomfortable. I have also been criticized by her a number of times. Regardless of your views on her, she has her own characteristics, especially in present-day Hong Kong. Her specialty is outspokenness. She has the courage to challenge the powers that be and the courage to say what she believes. More importantly, she let some disadvantaged groups make use of her platform to express their views. According to our experience, we can see that very often, LI Wei-ling enabled those who did not have the opportunity to speak to voice their views in her programme. In addition, as a media person, she has done a lot of work to motivate some people in the community to respond in order to fight for justice.

Members may recall that during CHING Cheong's imprisonment after arrest, she had called for the release of CHING Cheong for a long period of time. I also remember that during the Yellow Ribbon Action, the fact that CHING Cheong was unreasonably detained was mentioned almost every day. This was what she did. Certainly, we may say that what she did had gone beyond her capacity and duty as a commentator and programme host. However, this is precisely her characteristics. By making use of her platform, she called on the community to respond to certain incidents, thus creating an interaction between her, as a programme host, and society.

Precisely, for this reason, obviously she would offend the rich and powerful and the Government and became a thorn in the sides of many people.

No wonder ... as we all know, when Albert CHENG wanted to leave the DBC, he revealed a secret of the company, saying that it wanted to hire LI Wei-ling, but a major shareholder, WONG Cho-bau, refused to hire her because the LOCPG did not accept her. In other words, he had revealed a fact by disclosing the audio recording of a relevant meeting of the company. We can see that LI Wei-ling's conduct is not acceptable to the Government; many people hate her bitterly and want to get rid of her.

We can see that recently a series of incidents have indicated that there have been some personnel reshuffles in many media organizations. Kevin LAU of *Ming Pao Daily News (Ming Po)* is unfortunately the first one removed from his position as Chief Editor. As a result, the staff of *Ming Pao* are shock and anxious. After that, we can see that there was also a reshuffle in the *Hong Kong Economic Journal* before incidents such as withdrawal of advertisements occurred. These are not isolated incidents.

Commercial Radio has not provided any reasons for the sudden dismissal of LI Wei-ling in a brutal manner. Each and every one of us will naturally feel that or the public intuitively feel that such a dismissal is unusual. Will a normal dismissal be dealt with in such a manner? This is the first point.

Secondly, as we all know, her experience during this period was unusual. She was suddenly transferred from a morning programme to an evening programme before being given a warning that she could not give any interview to other media. How can this happen? We know that she is a dissident leader. Her programme has achieved a certain degree of success because she holds very clear political views, apart from the fact that she has motivated heated discussions on many issues in the community. So, her appeal comes from the importance attached to her views by other media. However, she was subject to oppression by Commercial Radio which prohibited her from being interviewed by other media on the ground that this would violate the contract with her.

We can see that this is different from the past. Under such circumstance, we must ask this question: What is the motive of the high-level management of Commercial Radio to oppress her and even dismiss her so as to sever the relationship with her? Why? It appears that there is a very clear background. We have reasons to believe what Henry TANG has revealed is true. A few years ago when LEUNG Chun-ying was the Executive Council Convener, he suggested that the renewed licence term of Commercial Radio be reduced from 12 years to six years due to his dissatisfaction with Commercial Radio. Mr

Henry TANG clearly revealed the fact to millions of Hong Kong people in the airwaves. Like many people, I believe what he said is precisely what had happened.

By looking at how LEUNG Chun-ying's Government handled the issuance of television licences, we can see how unreasonable and biased he was. And he might even have a lot of political considerations. The community as a whole feels disgusted with the Hong Kong Television Network Limited (HKTVN) licencing incident. The whole society feels that there are political issues and considerations behind it. As a result, even though Mr Ricky WONG can provide creative and innovative television programmes that the people are most eager to watch, he is not granted a new licence. All of these have made the people lack confidence in the Government, not to mention that LI Wei-ling has also pointed out that some influential people around the Chief Executive had warned her that her job was at stake.

On the basis of the aforesaid incidents, coupled with the overall background of this incident, I think there is sufficient evidence to push us into another stage and procedure in order to gather more information for finding out the truth and doing justice to the public. This is the objective we wish to achieve through the debate today. How can the Secretary say that it is a waste of time and effort for such an important matter? It is absolutely important to know the facts. How can he say that it is a waste of time and effort for the Legislative Council to seek the truth by invoking the powers? All of us should vote for the motion proposed by Ms Claudia MO.

MR CHARLES PETER MOK (in Cantonese): President, today Ms Claudia MO has proposed that a select committee be appointed by invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to inquire into the termination of the contract of LI Wei-ling, a radio host of the Hong Kong Commercial Broadcasting Company Limited (Commercial Radio). The incident of LI Wei-ling is the same as that of the attack on Kevin LAU to be discussed by this Council later today. Both incidents target at the freedom of the press and of speech in Hong Kong.

In fact, before the LI Wei-ling incident, there were many incidents targeting at the freedom of speech and of the press in Hong Kong. Recently, such incidents are particularly rampant, including intimidation by means of

violence, and withdrawal of advertisements by large corporations from newspapers due to financial considerations, thereby resulting in the deletion or even withdrawal of certain writers' articles by these newspapers. The most tragic incident in Hong Kong is the attack on Kevin LAU, shortly after the LI Wei-ling incident.

In my opinion, there are two similarities between the LI Wei-ling incident and the Kevin LAU incident. Firstly, it is difficult to find out the backstage manipulator. Secondly, it is really very much ironic that regarding the Kevin LAU incident, we can see the Commissioner of Police, TSANG Wai-hung, express that the incident is not related to Kevin LAU's reporting work. He made such a judgment before conducting any investigation. As for the LI Wei-ling incident, I believe Honourable colleagues in the Legislative Council who oppose invoking the powers under the P&P Ordinance will also point out that the dismissal of LI Wei-ling has nothing to do with her reporting work.

Given that LI Wei-ling was dismissed by Commercial Radio, which is a private organization, why should the Legislative Council request that the personnel matter of a private organization be investigated? Let us not forget that Commercial Radio is a licenced radio station and the licence is issued by the Government. It has made use of public resources and the airwaves. Amongst the many hosts of current affairs and news programmes in Hong Kong, LI Wei-ling can also be regarded as a very important and most influential programme host. In other words, Commercial Radio and LI Wei-ling are involved in public interests. The Government has taken the lead to break the rules because the Chief Executive in Council, the highest executive body in Hong Kong, rejected the application for free television licence by the HKTVN without giving any explanation on why the policy of unlimited number of free television licences has been overturned. Perhaps because of this, Commercial Radio also intended to do the same and terminated the contract with LI Wei-ling without giving any explanation.

President, anyone who looks at the incident in an objective manner will inevitably consider that there are some hidden secrets. LI Wei-ling, who is nicknamed "a small insect" by an Honourable colleague of this Council, has worked in Commercial Radio for many years as a very popular radio host. However, she is definitely not as unimportant as "a small insect". Many people sometimes feel that she is as detestable as "a small insect" and therefore dislike her. But her immediate dismissal by Commercial Radio which disallowed her to

say goodbye with her colleagues and even sent her personal belongings back by the company's security department can be described as apathetic. What offence has LI Wei-ling committed? Commercial Radio has not given any explanation so far.

After the dismissal of LI Wei-ling, many people may feel relieved. I believe LEUNG Chun-ying is the one who feels most relaxed. But over the years, LI Wei-ling has indeed voiced the views of the public, including the dock workers on strike, hostages in the Philippines incident and CHING Cheong who was detained by the Chinese Government for more than a year. LI Wei-ling provided assistance to them in a selfless manner. She voiced the views of the public, which, to a certain extent, are the opinions of many people from the bottom of their hearts. Indeed, there are some people who may point out that LI Wei-ling's dismissal has nothing to do with politics. Rather it is a personnel matter of Commercial Radio such as a personality clash between her and her boss. So, this is an isolated incident. Can we simply turn a blind eye to an isolated incident? Furthermore, if there is no problem in the whole incident, why did Commercial Radio "seal its lips"? Why has it not provided a clear explanation to the public to date?

President, I am worried that traditional media are silenced. Besides, I am also worried that the online media will be the next target at under this trend. Perhaps I should say that the online media have already been attacked for a long time. The online media, be they independent media or House News, will be subject to vicious and malicious network attacks every now and again. Some network media also contacted me earlier in the hope that I could raise a question in the Legislative Council, and I did. The question is: Why did the Information Services Department not allow them to perform news reporting on the Government's public activities and press conferences? Certainly, the Government has put up many excuses. On the one hand, it said that it is difficult to define "online media", while on the other, it said that it will closely monitor the latest developments. But when some news conferences are held and we have repeatedly requested the admission of some online media, the Government insists on its refusal.

The Government is unwilling to face the new media and refuses to facilitate their reporting work. If such a situation persists, there will be a latent problem. In future when the Broadcasting Ordinance and the Telecommunications Ordinance need to be consolidated or amended given that

both Ordinances are very outdated, many people may worry whether the Government will take the opportunity to impose more constraints on the online media.

So, I hope that, through today's motion, we can demonstrate our determination to defend freedom of the press, enabling the SAR Government to realize that the people do not want to see the recurrence of incidents which will jeopardize the press freedom in Hong Kong. But today, a similar incident has occurred again which will be discussed in the next debate. For such incidents, as a very popular saying goes, "one is too many". But the recurrence of such incidents has never ceased. I hope that Honourable colleagues can really support freedom of the press instead of putting up the pretext of the so-called "ethics". I also hope that Members will support Ms Claudia MO's motion on conducting an inquiry into the dismissal of LI Wei-ling by Commercial Radio by invoking the P&P Ordinance.

Thank you, President.

MR RONNY TONG (in Cantonese): President, I have always thought that freedom of the press is one of the important core values of Hong Kong, contributing to its success. So, there should not be any objection to this statement which should be agreed by all. However, President, just now on hearing the Secretary's speech, I began to doubt whether my said assumption is too naive. President, I have no intention to offend the Secretary or launch any personal attack on him. But frankly speaking, the Secretary's speech has really made me feel very disappointed and astonished. President, why did I say that? There are two reasons.

First, before listening to Members' speeches, the Secretary arrived at the conclusion that their speeches are certainly unfounded and indicated that he will oppose the motion. First of all, as a public officer attending the Council meeting, he has arrived at a conclusion on this controversial issue before the start of our debate on the motion and expressed that he would resolutely oppose it. Such an attitude, in my opinion, reflects his disrespect to the parliamentary assembly and probably his indifference to freedom of the press. If the Secretary is concerned about freedom of the press, he will certainly think that the issue is very important to Hong Kong and ponder whether an inquiry is necessary if problems have occurred in this regard. As to the question of whether problems

have occurred or not, he certainly has to listen to Members' views and justifications before making a decision in a prudent manner on whether freedom of the press is under threat. President, if I were the Secretary and concerned about freedom of the press, I would consider the issue with this logic. I would not rise to speak against the motion in the opening remark of my speech.

President, as for the second point, I understand that the Secretary is a lawyer. I have thought that there are at least some similarities in our mindsets. To put it simply, if someone has made an allegation which is denied by the accused, should a lawyer consider that the accused has done nothing wrong before conducting any investigation? Should an impartial person other than a lawyer consider such an issue with such a mindset?

President, we are precisely facing such a situation. Just now the Secretary pointed out in his speech that even though LI Wei-ling has made those allegations, such allegations are totally unfounded because they have been denied by the Chief Executive. Hence, the case is closed and we can turn off the lights and call it a day. It is as simple as that. When there is an allegation against me, I can simply deny it and claim that no investigation is necessary. President, is it as simple as that? Can anything like that happen in the world?

To put it simply, if you ask a third party who does not know LI Wei-ling about the issue, he might not have any idea about what has actually happened. He may even ask you whether he should trust LEUNG Chun-ying or LI Wei-ling. Certainly, all this is based on the assumption that he does not know that LEUNG Chun-ying is "a big liar" and he does not know LI Wei-ling too, or he does not know that she is so detestable. Nevertheless, he might also ask who is trustworthy. President, an inquiry is therefore necessary. So, my opinion of the Secretary was instantly downgraded by his remark just now.

Of course, Members of the pro-establishment camp have not yet spoken. But I felt puzzled after listening carefully to Mr CHAN Kin-por's speech. Sometimes, I wonder why our mindsets are poles apart although we eat the same kind of rice and drink the same kind of water. In his 10-minute-long speech, he made various accusations against LI Wei-ling or blamed her for the lack of professional ethics. President, is there any direct relationship between these problems and the issue we are discussing? Can you kill someone simply because he is not a good person? Is the dismissal of LI Wei-ling by means of political power justifiable by her poor professional ethics?

If the Hong Kong Commercial Broadcasting Company Limited (Commercial Radio) has pointed out categorically that LI Wei-ling's professional ethics is indeed problematic, or the audienceship of programmes hosted by her has dropped to a level compared to or even worse than the popularity rating of LEUNG Chun-ying, and because of these, she was dismissed, then, President, we need not speak on the issue here or waste our time discussing it. But this is not the case. So, if anyone discusses her professional ethics on this occasion and opposes the motion on the ground of her professional ethics, is this a smear campaign against her rather than dealing with the issue that freedom of the press is under threat?

President, having spoken thus far, I have not yet come to the core issue, which is freedom of the press, and it is our concern. So, if there is any sign that the press freedom is subject to threat, we should be vigilant and conduct a thorough investigation. If LEUNG Chun-ying is really concerned about freedom of the press as he claimed; or if I were LEUNG Chun-ying, I would say that I do not agree with LI Wei-ling's accusation, but a thorough investigation would be conducted to do justice to myself and Hong Kong people so that the international community would know that press freedom in Hong Kong is upheld in a steadfast manner. President, this is what an impartial and honest person will actually do, not to mention a politician. But LEUNG Chun-ying has not taken this course of action. On the contrary, he has instructed the Secretary to assert in his first remark on rising today that he denied such an accusation. As he has denied such an accusation, the motion is obviously unfounded and should be opposed.

President, let me come to the crux of the issue. President, although Commercial Radio is a so-called commercial radio station, it is not a purely commercial organization. A purely commercial organization can dismiss any employee. It does not matter. But Commercial Radio is now making use of public resources. Our airwaves are not "sold permanently" to the company. President, when a broadcasting licence is issued to a radio station, public resources, to a certain extent, have been entrusted to the company which cannot abuse its position for private interests, including political interests or purely pecuniary interests, by paying heed to certain political desires for the sake of licence renewal, for example. If so, President, this is a scenario in which a public instrument is used for personal purposes. The company has abused Hong Kong people's confidence in it. It has also abused public resources in pursuance

of some people's political desires. All these are also major issues, President. We simply cannot say that an investigation is not necessary on the ground that it is a commercial organization.

The Secretary rose to speak and made a lot of arguments which are comparable to stating that "my mother is a woman". President, why did I say that? He said that we respect the editorial independence of the press. This is correct. He said that we should not interfere with the operation of a commercial organization. This is correct. He said that we should not interfere with Commercial Radio's decision on staff recruitment or dismissal. This is correct too. All these are correct. But these remarks are comparable to stating that "my mother is a woman". President, what we are talking about is not editorial independence in the ordinary sense; the operational decision of a business entity in the ordinary sense; or its decision on staff recruitment or dismissal in the ordinary sense. These are not the substance of the accusation. Now, the accusation is that owing to political pressure, LI Wei-ling who should have continue to serve as a programme host, was summarily dismissed. So, we should respond to such an allegation. It is inappropriate that when someone has made an allegation about A, we give a response about B and then claim that no investigation is necessary. What is the logic behind it?

President, so far, I find it entirely difficult to understand why the SAR Government has adopted such a position, unless it has a guilty conscience or LI Wei-ling's allegation is true. Therefore, the Government does not want to see a thorough investigation into this matter by the Legislative Council. If it is totally above board, why is it afraid of any investigation? President, it needs not conduct any investigation by itself. We are the one who hold meetings and inquire into the matter. It at most has to come here to testify. What is it afraid of? Even if LEUNG Chun-ying has to come before the Legislative Council, what is he afraid of? Honestly speaking, a person who has a clear conscience will not be afraid of being summoned by the Legislative Council, right? Why should they be afraid of coming to the Legislative Council? So, President, on the basis of the Secretary's speech today and the SAR Government's response to the issue in the past, it is inevitable for us to come to the conclusion that an investigation is necessary.

President, I am not afraid of stating publicly that I have no intention to "prop up" LI Wei-ling. Honestly speaking, opinions on Miss LI Wei-ling's performance as a radio host are really diverse. But this is not important because

this is not the factor to be taken into account by us. She was dismissed not because of her professional ethics. Otherwise, I will ask Commercial Radio to make a statement tomorrow morning so that we do not have to waste our time and efforts in discussing this issue anymore. Most importantly, President, as I said at the outset, we should attach weight to the issue if we are really concerned about freedom of the press. Now the Government has assumed an attitude that it does not attach weight to the issue. It has even tried to hide the truth in a hegemonist manner. This is absolutely unacceptable.

President, here I would like to call on Members of the pro-establishment camp who are not present to return to the Legislative Council expeditiously so that they can explain to us why they can veto the motion without listening to any of our views. Their performance is even worse than that of the Secretary. The Secretary has at least stood up to assert that he has told the truth and the case should be closed as the allegation has been denied. But none of the Members of the pro-establishment camp is present. President, I am not asking for a headcount. I know it is very dangerous to do so at this juncture. However, if these Members are watching the live broadcast of the Council meeting, I hope they can return to the Chamber as soon as possible in order to respond to my question: Why do they think that this motion should not be passed?

Thank you, President.

DR HELENA WONG (in Cantonese): LI Wei-ling was suddenly dismissed by Hong Kong Commercial Broadcasting Company Limited (Commercial Radio) and in a press conference held on 13 February, she said she absolutely felt that this incident was related to the suppression of press freedom and the freedom of speech by the LEUNG Chun-ying Administration. Commercial Radio, as a licensed broadcasting company, has succumbed under the thrall of licence renewal.

LI Wei-ling made two major allegations: First, LEUNG Chun-ying was suppressing press freedom; and second, Commercial Radio succumbed because of the need to renew its licence. The nature of these two allegations is very serious and involves major public interest. Since the responses made by both Commercial Radio and LEUNG Chun-ying so far were brief and did not serve to dispel public misgivings, I support Ms Claudia MO's motion and believe that the

Legislative Council should establish a select committee to investigate if the allegations are true.

However, this legislature of ours has degenerated to such a pathetic state that there is practically no need to conduct any debate or any vote for us to know that the pan-democratic camp will surely support invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to conduct an inquiry, whereas it is also a very easy job for Members of the pro-establishment camp as they will surely oppose doing so. This legislature has degenerated to such a state that there is no need to discuss the rights and wrongs of the matter or if there is such a need, with practically everyone assuming their entrenched positions automatically. Later on, I also wish to listen to more Members of the pro-establishment camp talk about why they back the Government. Why do they consider an inquiry unnecessary? In the face of such serious allegations, do they mean we can just pay no heed to them? If this legislature has indeed descended to such a state, this is most pathetic indeed.

At the end of last year, LI Wei-ling was transferred from a morning programme originally hosted by her to a phone-in programme in the evening. At that time, it was already said that since the phone-in programme in the morning attracted a large audience, it was very influential and could determine the focus of the topical issue of the day, so its influence on society is very great. By transferring her to an evening programme, her audience could be reduced by half, thereby reducing LI Wei-ling's influence on society and public opinion, so this may be favourable to Commercial Radio in licence renewal. At that time, there was already such a claim. Although the senior management of Commercial Radio explained at the time that such an arrangement represented only normal programme staff redeployment, LI Wei-ling was dismissed just a few months after her transfer and the approach adopted in the dismissal was very brutal — a Member described it as such just now — giving the impression that the whole matter is most unusual. On that day, Commercial Radio took the opportunity of LI Wei-ling performing her duties outside office to post a notice in her office announcing the termination of her contract and notify her of her immediate dismissal by e-mail, without citing any reason for her dismissal, nor was she allowed to return to her office to pack up her personal belongings, so she did not even have an opportunity to say goodbye to her colleagues. Was it necessary to be so callous? What necessitated issuing such an urgent order to boot a senior colleague with many years of service out of Commercial Radio?

Subsequently, LI Wei-ling talked about her perception of the whole incident at a press conference. She said that at a luncheon with Mr Stephen CHAN in mid-October last year, the latter disclosed that he had contacted the Communications Authority over licence renewal for Commercial Radio but he was ignored. The assertion made by LI Wei-ling coincided with a rumour doing its rounds last year. In October last year, a newspaper quoted a well-informed source as saying that Commercial Radio had had initial contacts with the authorities concerned over licence renewal but it was cold-shouldered. The party concerned proposed some "exchange conditions", telling Commercial Radio what had to be done before licence renewal would be possible. It was rumoured that if Commercial Radio could give the boot to LI Wei-ling, who was the fieriest of all, it would be possible for the licence of Commercial Radio to be renewed. In other words, LI Wei-ling has become the key in whether or not Commercial Radio would be granted licence renewal.

Therefore, the allegation of LI Wei-ling is: Commercial Radio succumbed because of the issue of licence renewal. On this issue of licence renewal, has the Government ever issued a decree secretly to make Commercial Radio sack LI Wei-ling? Here, many figures are involved. They include LI Wei-ling, who was given the sack suddenly, Commercial Radio, Stephen CHAN, the Administration and LEUNG Chun-ying. In this drama, who has actually told the truth and who has lied? Should we not conduct an inquiry to look into this thoroughly? Moreover, this matter does not just involve ordinary members of the public and carries no importance, rather, everything in it involves people holding public offices in the Government.

President, in view of so many doubts in society, I believe if we want to get to the truth of the matter, a thorough inquiry must be conducted by invoking the P&P Ordinance to set up a select committee and conducting an inquiry in the Legislative Council. Legislative Council Members are duty-bound to do so. As Legislative Council Members who monitor the executive, we have to investigate what they have done in this matter of licence renewal. This is a role of the legislature we should perform.

In response to the doubts in society, Stephen Chan of Commercial Radio simply responded by saying "when two gentlemen stop being friends, they will not say harsh words to each other". Is the whole matter sheer fabrication by LI Wei-ling? Why is a detailed and clear account not given of what happened?

Is it because there are matters that cannot be disclosed? Throughout, Commercial Radio did not offer any convincing account of whether or not the dismissal of LI Wei-ling was related to its licence renewal.

As regards the allegations made by LI Wei-ling against LEUNG Chun-ying, how did LEUNG Chun-ying respond? In his response to the incident of the dismissal of LI Wei-ling, he resorted to a great deal of "hypocritical rhetoric". He said he had never talked about LI Wei-ling's post or duties in Commercial Radio to anyone at any time. Such a tortuous rhetoric twist does not actually rule out LEUNG Chun-ying's connection with this incident. He only denied having mentioned LI Wei-ling's post or duties in Commercial Radio, but it does not mean LEUNG Chun-ying has never voiced to other people his dissatisfaction with the style or comments of LI Wei-ling in the programme hosted by her or even the connection between LI Wei-ling and licence renewal of Commercial Radio.

In fact, well before LI Wei-ling was transferred from one post to another, some press reports already cited information from the Government as saying that LEUNG Chun-ying once criticized LI Wei-ling's style in her programme forthright in front of officials attending a "morning prayer" gathering and a senior official also intimated that according to the judgment of the Government, LI Wei-ling's programme already posed obstacles to the SAR Government and was unfavourable to the SAR Government's administration. It was speculated that LI Wei-ling would be sacked sooner or later and that she would lose her job very soon. This also led to the development in which LI Wei-ling said that someone close to LEUNG Chun-ying had approached her to tell her to be careful about her job. If LEUNG Chun-ying has never done such a thing or expressed his dissatisfaction with LI Wei-ling, wanting her to lose her job, why did a person close to him — no matter who it was — say this kind of thing, telling LI Wei-ling to "be smart" and that she would lose her job sooner or later? Is he a prophet? Did they know that LI Wei-ling would be sacked soon?

President, there are far too many mysterious gaps in this incident, so we have to understand and see what happened. Therefore, setting up a committee according to the P&P Ordinance is intended to help us understand the truth of the whole matter, and LI Wei-ling is also willing to co-operate in the inquiry. Judging from press reports — if the press reports that we read are true — it means it is likely LEUNG Chun-ying was the "backstage manipulator" who brought about the ultimate dismissal of LI Wei-ling and Commercial Radio was the "hit

man" who executed the dismissal of LI Wei-ling. Whether LEUNG Chun-ying directly or indirectly brought about the dismissal of LI Wei-ling has to be investigated thoroughly by us through the establishment of a committee.

In fact, it is not starting from this incident relating to Ms LI Wei-ling that LEUNG Chun-ying is suspected of interfering in the renewal of the licence for Commercial Radio, rather, he has a previous record. I believe we all remember that in the last Chief Executive Election, a candidate, Henry TANG, once dropped a bombshell in an election forum, disclosing that in 2003, LEUNG Chun-ying, who was the Convenor of the Executive Council then, suggested shortening the licence tenure of Commercial Radio to three years in the discussion of the Executive Council on the renewal of the licence for Commercial Radio in order to purge Commercial Radio and give it a taste of the Government's authority. The allegation made by Henry TANG against LEUNG Chun-ying was in the end confirmed by the people concerned. In addition, from 2002 to 2004, the Chief Operating Officer of Commercial Radio, Mr Tony TSOI, also disclosed in a programme of Radio Television Hong Kong hosted by him that back then, he learnt from George HO, Chairman of Commercial Radio and Winnie YU, Deputy Chairman of Commercial Radio, that LEUNG Chun-ying had hindered the licence renewal process because of his dissatisfaction with the host of *Teacup in a Storm*, Mr Albert CHENG. Mr Tony TSOI said that at that time, it was rumoured that the licence tenure would be renewed for two or three years or for an even shorter period of time, and the licence may even be suspended. At that time, George HO, Winnie YU and he hastened to come up with a counter-measure and in the end, it was decided that the support of other media organizations for Commercial Radio in licence renewal would be sought. Due to the concern aroused in society, the Government eventually allowed Commercial Radio's licence to be renewed for 12 years but added a clause, that is, an interim review has to be conducted in the sixth year.

Given such a track record, it is absolutely possible that LEUNG Chun-ying may play the same old trick by pressurizing Commercial Radio again by means of licence renewal to curtail press freedom and the freedom of speech, so as to achieve the political end of silencing political voices. These allegations are very serious, so are they just hearsay or fabrication concocted arbitrarily to frame LEUNG Chun-ying up? If they are unfounded — and we also hope that they are false — is it necessary for us to carry out an investigation first?

In addition, on the last occasion, when Commercial Radio applied for licence renewal in 2003, incidents of going off air also happened. At that time, the programme host of *Teacup in a Storm*, Albert CHENG, had to go off air in 2003 until the licence of Commercial Radio was renewed. Although he could go on air for some time afterwards, he and WONG Yuk-man were both silenced after a short while, with the two citing political pressure and physical and mental exhaustion respectively in their announcement on going off air suddenly. A decade has passed between 2003 and 2013 and now, it is again the critical time for Commercial Radio in renewing its licence and history is repeating itself.

Just now, many Members said that the dismissal of LI Wei-ling was not an isolated incident and that recently, a series of incidents have happened. So is this sheer coincidence? First, the team of *Hong Kong Economic Journal* was replaced, then the chief editor of *Ming Pao*, Kevin LAU, was replaced, advertisements were pulled from *am730* and *Apple Daily*, then, parts of the article written by LIAN Yizheng was deleted and of course, the most horrific of all is that after Kevin LAU had been transferred, he still had to go through the ordeal of being inflicted six chop wounds, thus striking fear into our hearts. President, what has happened to Hong Kong? Now, when we visit the local communities, be it friends in the middle class or ordinary members of the public, and even some professors in universities, we could hear them say they really had to consider whether or not to emigrate. Such a situation has really struck fear into our hearts.

President, earlier, a Member also said that Hong Kong's ranking in press freedom has fallen from 18th in 2002 to 61st at present. So the ranking is even lower than those of such countries as Taiwan, South Korea, South Africa and Romania. All along, we have regarded Hong Kong as a very advanced place in a vanguard position but our press freedom is being seriously threatened. Press freedom is a core value of Hong Kong, so we must not think that by silencing voices, Hong Kong will be very stable. If one person is silenced, what will follow is the further erosion of the freedoms of the press and speech in Hong Kong. The business sector and society as a whole will have to pay the price.

President, today, the Democratic Party will support Ms Claudia MO's motion. We have to investigate the incident related to Ms LI Wei-ling and find out the true "backstage manipulator", so that justice can be done to Hong Kong. *(The buzzer sounded)*

MR LEUNG YIU-CHUNG (in Cantonese): President, first of all, not only do I have to thank Ms Claudia MO for moving this motion, I also support this motion.

The main reason for my supporting this motion does not lie in the fact that LI Wei-ling assisted me in electioneering when I was running in the District Council Elections in 1985 but a very important point raised in Ms Claudia MO's motion, that is, whether the SAR Government has interfered with the editorial independence of Hong Kong Commercial Broadcasting Company Limited (Commercial Radio). The significance of this comment can be understood at two levels and both are equally important. One level is editorial independence, which many Honourable colleagues talked about just now. Editorial independence is a core value of Hong Kong and we must defend it with our utmost. However, we find that in recent years, editorial independence has been affected by many incidents, so we are worried about whether or not it will be undermined and battered day after day. If the Government attaches importance to editorial independence but it is alleged that editorial independence in Hong Kong has been subjected to interference — in particular, political interference — I find it strange why an inquiry should not be conducted, as suggested by the Secretary. This is really strange because this matter is so very important and everyone agrees with this point but surprisingly, the authorities assert that there is no need to care about or defend it and simply let themselves be criticized by others, thus allowing the situation to deteriorate. I find this attitude adopted by the authorities very strange.

The second level is political interference. This is also very strange. I wonder if, in the face of allegations of political interference, the Government is so feeble that it dares not face the issue squarely, or if it is for some other reasons that it appears to be helpless and resigned. Or does the Government disagree with this? If the Government indeed disagrees, I think it should come forth to clarify if it has made political interference. This is because political interference is a very serious allegation and political interference with editorial independence is all the more serious. Be it political interference with editorial independence, political interference with the freedom of speech or political interference with all the fundamental rights of the people, what do such interferences signify? They signify that this is a totalitarian Government, an autocratic Government and a high-handed Government. However, President, I find it very strange that apparently, our Secretary and our SAR Government is indifferent to these issues and even though it is the subject of such severe and serious allegations, it still says that it is unnecessary to give them any heed.

Why do I support Ms Claudia MO's motion today? Unlike other Members, I do not believe that since the radio programme hosted by LI Wei-ling could provide a platform for more socially disadvantaged groups to voice their views and comments targeting the Government, we have to support her, or that perhaps it was because she made comments targeting the rich and powerful that she was persecuted and came to such a pass as a result. Nor do I agree with the comments made by Honourable colleagues who said that LI Wei-ling's comments were radical, partial and subjective, so she could not live up to the ethics of a journalist, and that she was very biased, so she could not let all parties express their views objectively. I do not disagree with them for these reasons. I believe we should not deal with this issue at such a level because, as some Honourable colleagues said just now, in dealing with news and viewpoints, LI Wei-ling has her personal stances and analyses that we may agree or disagree with but whatever her political stance or style, what we have to discuss today is not this issue. We are here not to examine the behaviour of an individual, rather, we want to examine whether or not the Government has made political interference with editorial independence, and this is the most significant question.

Just now, Dr Helena WONG delivered an excellent speech, setting out a great deal of detailed information and pointing out that the so-called editorial independence is not just about editorial independence *per se* but also whether or not a radio station can have its licence renewed. This is where the gravity of the matter lies. As we all know, the operation of this radio station has a close bearing on the daily lives of the public. We all understand, know and appreciate how long a history it has and what relationship it has established with us but to our surprise, its existence or demise is subjected to political interference and manipulation by the Government, but what is the Government's reaction in the face of such allegations? The Government thinks that it does not matter — it can go so far as to conduct its affairs in this way. I believe we in the Legislative Council cannot conduct our affairs in this way. Even though the Government is like this, the Legislative Council, as the legislature and an institution trusted by the public, has to look into this incident and we cannot allow such allegations. Is this something acceptable to you?

President, what we have to defend today is editorial independence in which no political interference can be tolerated. This is a matter on which Hong Kong's international reputation rests and to which the important foundation of our daily life is related. If we lose these things, the Hong Kong we know of it today

will cease to exist. One important factor on which Hong Kong's development depends is precisely our editorial independence.

Let us look at Taiwan's past development. During the period of the press ban in Taiwan, the whole Government was corrupt but nowadays, although there are still many problems with the Taiwan Government, we can see that the people, society and economic development are all travelling on a healthy road and this is because the press ban was lifted and editorial independence was allowed. So these are all very important developments. The same applies to the Mainland. In the past, one newspaper would set the tone and the commentaries of one newspaper represented all views, so the people did not know what was happening in the Government but now, the situation has improved slightly — although there are still many problems, there has been slight improvement. Of course, there are also some lamentable aspects. When meeting a lot of people from the Mainland, we asked them about the 4 June incident and who LIU Xiaobo was, but they did not have the slightest idea, so this situation is rather pathetic. However, I believe our SAR Government would not regard itself as such an autocratic and corrupt Government. This being so, at present, given that the general public have made the very serious allegations that you have made political interference in editorial independence, why did you go so far as to ask the Legislative Council to oppose invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to investigate this incident? Why did you not make clarifications for yourselves? This is indeed very strange, President. Each time we discuss invoking the P&P Ordinance to inquire into a certain incident, one remark that we made to the other party but invariably could not strike home is, "We are not targeting you". Rather, we want to clear your name, but the Government does not even like this. When other people want to clear its name, it still does not like it, so this is very strange. When other people think there is something wrong in the incident and a suspected element of wrongdoing in it, you can still behave as if nothing has happened. We now want to help you solve this problem, so that an account can be given to society as a whole and people can see that you are not like this, so why do you not even allow us to do so? This is really puzzling.

Today, I do not wish to repeat the comments made by a number of Honourable colleagues or the incidents mentioned by them, in particular, those by Mr WONG Yuk-man. He did a good job by preparing some very detailed information to set out the chronology of a lot of happenings. However, I only

wish to say that today, we are not targeting an individual. This is a very important point because we do not want to look into whether or not LI Wei-ling herself did anything wrong. Rather, we want to see if the Government has interfered with editorial independence, so I hope Members will no longer comment on whether Ms LI Wei-ling was neutral or extreme, or had problems with her personal integrity. These are not the issues we want to discuss today. I hope Members will not discuss them. Rather, they should focus on whether or not we should ascertain, for the Government, if it has made political interference with editorial independence.

President, I so submit.

MR SIN CHUNG-KAI (in Cantonese): President, although Mr LEUNG Yiu-chung asked us not to comment on a certain aspect anymore, I still wish to say a few words. LI Wei-ling is a current affairs programme host and she is also a private friend of mine, so I know her both as a private friend and public figure but in today's debate, I am dealing with a public issue in my official capacity, so whether or not she is my friend does not matter. On public issues, I remember that LI Wei-ling had criticized me far more than she praised me. However, today, I will support Ms Claudia MO's motion, thinking that it is necessary to conduct an inquiry.

I am not at all surprised by the Secretary's opposition to an inquiry and the establishment of a select committee. Just now, we heard the official reply and with reference to the official reply, Ronny also queried the grounds for the Government's opposition. I believe the ground is very simple. Certainly, one cannot possibly allow an investigation into one's boss, can one? Dr Helena WONG stated it very clearly just now. This time around, LI Wei-ling accused LEUNG Chun-ying of suppressing press freedom. I do not agree with Mr LEUNG Yiu-chung's suggestion that we have to investigate the Government because LI Wei-ling only directed her allegations at one person and she did not accuse the whole Government of suppressing press freedom. She only directed her allegations at LEUNG Chun-ying. If I remember it correctly, when I watched LI Wei-ling explain why she was dismissed at the press conference on that day, she said clearly that she was accusing LEUNG Chun-ying. Therefore, the central figure in the whole inquiry is LEUNG Chun-ying.

If we want to set up a select committee to investigate his boss, of course, he will oppose it. I wonder if this can be considered a conflict of interest. However, obviously, judging from the press conference hosted by LI Wei-ling, from an objective point of view, her allegations are serious as LEUNG Chun-ying was accused of suppressing press freedom. However, if we ruminate over the evidence cited by LI Wei-ling and the comments made by her when speaking in the *City Forum*, relatively speaking, the evidence is not that solid and it can even be regarded as somewhat flimsy.

There are two reasons for the evidence being flimsy: First, she may have heavy firepower that she has not deployed and she will wait until the relevant inquiry under the P&P Ordinance to deploy it. One of the reasons is related to the issue that we want to deal with today. She may have heard of a lot of things that perhaps she cannot disclose at such a venue. Therefore, we need to invite LI Wei-ling and the parties involved in the matters that LI Wei-ling learnt about to give their accounts at a suitable juncture and at a suitable venue. Of course, the biggest target is LEUNG Chun-ying. If LEUNG Chun-ying was really involved in suppressing press freedom, often, he may not do so directly but may do so through persons A, B, C or D. If we can successfully establish a select committee, we can invite the parties involved in this matter, such as persons A, B, C or D to come and be investigated one by one. Of course, if they come one by one, we can piece together the picture and evidence like a blind person groping an elephant, thus giving substance to LI Wei-ling's allegations.

President, one point is clear: LEUNG Chun-ying has a track record of doing so. Dr Helena WONG said just now that Henry TANG made a revelation in the Chief Executive Election, disclosing how LEUNG Chun-ying suggested in the Executive Council that the licence tenure of Commercial Radio be reduced from 12 years to three years. Now that he has taken centre stage and is no longer the Convenor of the Executive Council but the Chief Executive, why would he not take it upon himself to do the slaying? There is no smoke without fire. Given such a track record and the subsequent developments, there are actually sufficient grounds for us to set up a select committee.

President, it is important to defend press freedom in Hong Kong. Judging from the information released by Commercial Radio, or if we piece together various pieces of hearsay, it can now be seen that the dismissal of LI Wei-ling does not involve any issue of personal integrity, nor is it a matter of work performance. Obviously, when it comes to work performance, LI Wei-ling had

been the host of an evening programme for a long time before she was transferred to a morning programme for a period of a year or so, then she was transferred again to an evening programme and eventually, she was dismissed. Only a talented person doing a good job could be transferred from an evening programme to a morning programme, so this is not a matter of work performance. Just now, some Members talked about the dismissal process. In fact, the connotation of the dismissal process and the demand to leave on the same day is very clear. Judging from my past experience of working in a bank, in the majority of cases, such an approach in dismissal involves disciplinary issues. If it is a matter of performance, the boss would tell you that recently, your performance has not been up to par and he would point out the relevant situation clearly, expecting you to propose an improvement plan stating how you would improve your performance in future. Simply put, he would issue a verbal or written warning and it is only after you have not shown any improvement after receiving the warning that you would be given the sack. LI Wei-ling said very clearly in the press conference that all signs indicated that this had nothing to do with her work performance, at least, her superiors did not make any strong criticisms of her work performance. Of course, just now, many Members directed criticisms at LI Wei-ling's allegations, believing that this incident had to do with dissatisfaction with her work performance but most importantly, for some time prior to her departure, LI Wei-ling's superiors clearly commended her for her work performance. Since work performance was not at issue but the process of dismissal involved a measure related to integrity, that is, it would only be because of disciplinary issues that such dismissal action would be taken, but she did not have the so-called ... the press release of Commercial Radio stated clearly that in parting, one should not speak ill of other people but the problem is that this is now a reversal of the situation in that it is the party dismissed that is dissatisfied and the party dismissed was blameless. If Commercial Radio has any information, it may point out what wrong LI Wei-ling has done and if it is not convenient to say it outright, it can come to the Legislative Council and give an explanation in accordance with the P&P Ordinance.

Therefore, in the final analysis, first, this is not a minor matter and the allegations are very serious. The target of the allegations is an individual and that individual is our Chief Executive. He is accused of interfering with press freedom, thus leading to her dismissal, whereas the Secretary opposes investigating his boss. President, I already know the outcome today. Of course, when we learnt that Commercial Radio or LI Wei-ling was the subject of persecution, we thought that it was a big piece of news but within less than a

week, this piece of news that we original considered to be big was eclipsed because what follows next is an even more important debate which is related to Kevin LAU being dealt six slashes with a knife.

President, Hong Kong is a terrible place because there are more and more problems involving the mass media. This morning, I went to a Hong Kong-style cafe in Ap Lei Chau Estate to have morning tea and a lady in her sixties or seventies asked me if I would go to Shanghai, so I asked her what her view was. She started to cite a raft of problems, saying that the Hong Kong nowadays is not the one that she knew as a child and that there was no freedom even in watching television, was there? She then mentioned a host of matters and of course, she also mentioned issues like press freedom. President, my impression is that the situation nowadays is a far cry from what I found in my childhood. Our press freedom is not just experiencing a cold winter; it is virtually in the ice age. Today, we are doing what we know full well is the impossible by continuing to encourage Ms Claudia MO to champion press freedom, and Honourable colleagues should also give one another encouragement and persevere. Although I know the outcome today will be the non-passage of the motion, I think we also have to put this on record. We have to insist that LEUNG Chun-ying do Hong Kong justice.

I so submit.

DR KWOK KA-KI (in Cantonese): President, it is said that "one cannot falsify truth, nor verify lies". After being dismissed by Commercial Radio, LI Wei-ling cited this remark made repeatedly by her former superior, Stephen CHAN.

To some extent, there were actually lead-ups to the departure of LI Wei-ling and her departure was almost foreseeable. First, she was transferred from her post and later on, she was posted to another time slot to host another programme. Then, there were rumours about Commercial Radio being subjected to great pressure in relation to licence renewal and in the end, she was dismissed after being subjected to a great deal of humiliation. At the press conference hosted by the Hong Kong Journalists Association (HKJA), she made this claim — of course, it is difficult to find evidence to support it — that she was 100% sure the reason was that LEUNG Chun-ying dislikes her.

Some people queried why, even though there are many people whom LEUNG Chun-ying dislikes — in fact, many people also dislike him — she was singled out for the purge. Of course, it is not just her who has been purged. Over the past year, the press has been thrown into a state of panic and plagued by fears. That Kevin LAU was injured in a knife attack may not be the worst to come. Although it was Kevin LAU who suffered chop wounds, it was press freedom that was injured.

Just now, Mr SIN Chung-kai said that the essence of Hong Kong nowadays is changing and what can make the essence of society change most easily is the deprivation of press freedom and the right to know. Commercial Radio is not an isolated example. Other examples include the "harmonization" of RTHK, the transfer of Sam NG from his programme, a number of warnings issued to programmes popular with the public, such as *Headliner*, and even members of senior management — we all know this — were dealt with in various ways, for example, by not being given promotions, being prevented from getting promotions, and so on. Of course, the Government will not admit to anything.

Not only were government media organizations dealt with in this way, even many other commercial media corporations run by moguls were not spared either. The *South China Morning Post* nowadays is no different from the overseas edition of *China Daily* because it turns out its chief editor is a delegate of the Chinese People's Political Consultative Conference on the Mainland. What we have seen is not an isolated incident. Other examples include the pulling of advertisements from *am730* and *Apple Daily*, the replacement of the chief editor of *Ming Pao Daily News*, so each "slash of the knife" has inflicted a wound on press freedom in Hong Kong.

A more distant example involves Henry TANG. Members may still remember that the comments directed by Henry TANG at LEUNG Chun-ying at the final stage of the Chief Executive Election in 2012 — we can still remember them vividly even now — accusing LEUNG Chun-ying of "fooling others" and "lying". Henry TANG was one of the Executive Council Members in 2003 and the fact disclosed by him was that in 2003, when the licence of Commercial Radio was due for renewal, LEUNG Chun-ying, who was also a Member of the Executive Council, suggested that the tenure of the renewed licence be shortened to three years. Perhaps for this reason, LEUNG Chun-ying hates him because he exposed his most sordid side to the public.

Today, in standing up, our aim is not to "prop up" a programme host. As Members said, we are not speaking up merely for LI Wei-ling, nor are we speaking up for individual programme hosts. We are most concerned about issues related to the system and the facts.

President, not only was LI Wei-ling unrelenting to the pro-establishment camp in the programme hosted by her, in fact, the criticisms she levelled at the pan-democratic camp were by no means fewer than those directed at the royalist camp. As we all know, she follows the principle of saying what is right and wrong outright. Although a number of Honourable colleagues in the pro-democracy camp were rendered speechless by her retorts in her programme, we do not have any complaint about the style in which she hosted her programme. What we hope to preserve is precisely this kind of dauntless spirit displayed by her, and it is hoped that she can continue to use her pungent turns of phrase when interviewing high officials and celebrities invited to her programme, so that the truth can be laid before the public. What we want to preserve today — although it is difficult to do so — is precisely this kind of press freedom.

In the short span of several years, the ranking of press freedom in Hong Kong has fallen sharply by 43 places. I believe that if a number of cases of assault on members of the media industry, as well as another case of assault on editorial staff members today, which has not as yet been reported in the press, are taken into account, the ranking of Hong Kong next year will truly be a sorry sight. A blameless Government with a free conscience would not be afraid of being investigated. Each time we proposed in the legislature that a select committee be established ... we all understand that if the Government does not have any secret and has never taken any mean and petty action, if Commercial Radio has never taken any mean and petty action because of the pressure arising from licence renewal, what possibly cannot be discussed thoroughly in the Legislative Council but has to be sidestepped and shunned? Is not the Government the party that should defend press freedom for Hong Kong? Did LEUNG Chun-ying not assert vocally that he respects press freedom? Each time, in the fundraising dinners of the HKJA, which were also attended by Ms Claudia MO, he often claimed that he would uphold press freedom and that he liked the press the most. There could not be any better example of hypocrisy.

It is hard for us not to give Commercial Radio, the Government and the people concerned opportunities to give clear explanations and set before the eyes

of the public the doubts in the mind of the person concerned and the truth of the matter. This is the aim of setting up a select committee to conduct an inquiry. We cannot possibly predict the outcome, nor are we capable of doing so, and the ending may be different from that imagined by all of us. Maybe in the end, we will find that LEUNG Chun-ying is blameless. Why not give him an opportunity? We also wish to give the Government an opportunity to prove its innocence and give Commercial Radio an opportunity to prove that it was not subjected to any pressure. Why are the Government and the pro-establishment camp unwilling to make available such an opportunity? There is not any problem. What possibly can the select committee find out? We will not use torture to extract evidence, nor does Ms Claudia MO know how to make intimidation of any kind.

President, we believe the Government is so lame that it does not even have the courage to face the public. It dares not come forth and face the public. Precisely for this reason, it is all the more necessary for us to lobby for an opportunity, so that the Hong Kong public know that we have not been hoodwinked. In this distorted Legislative Council, many things that should have been accomplished cannot be accomplished, and I understand this very well. The system of functional constituencies and separate voting make it impossible to pass many motions that should have been passed in the Legislative Council. However, this is not the issue that we want to discuss today. We will wait until the future discussion on constitutional reform to put across the voices of the public in the Legislative Council.

Today, what we are seeking to do is to find a way to establish a platform, so that the public, reporters and colleagues of the Legislative Council can find out the truth and set it before the public. It is only through setting up a select committee and making oaths that the rights of the people attending the meetings of the select committee can be protected and their obligations asured.

Press freedom in Hong Kong has entered a chilly winter and its prospect is rather bleak. This is the fact. Secretary Gregory SO and the lot of government officials may be congratulating themselves privately because this is the situation they wish to see the most. The senior members of the editorial staff of various organizations have mostly been replaced and their stances have also changed, so there will arguably be plain sailing for the future administration of the Government because there will only be one voice singing praises. No matter

how lame the Government is, there will always be media organizations that speak in its defence. No matter how lame the Government is, it does not matter. There will always be someone to put the "emperor's new clothes" on the Government.

However, "one cannot falsify truth". The Hong Kong public understand that press freedom must be defended and we should not be overly worried either because nowadays, the mass media cannot be controlled by several or a bunch of consortia or officials and the privileged. Many platforms are still available to us, for example, social networking platforms. The truth cannot be covered up and what is sordid will surely be exposed. The voting result and the speech of the Government today precisely make up part of that sordidness.

With these remarks, I support Ms Claudia MO's motion.

Thank you, President.

MR GARY FAN (in Cantonese): President, while we are in the early spring months of February and March in the year of 2014, there have been nevertheless more days of chilling winds and raging rain storms as we have seen successive incidents of LI Wei-ling being brutally dismissed, the Government moving the goalposts to bar Ricky WONG from launching a new television station and Kevin LAU being stabbed six times on the street, and just this afternoon at one o'clock, two media executives of *Hong Kong Morning News* were assaulted on the street. The suppression on freedom of the press and the media in Hong Kong has aroused grave concern among Hong Kong people.

President, the SAR Government and the Legislative Council absolutely should not sit idly by, looking on these incidents involving the media and freedom of the press. When we in the House Committee discussed the incident of LI Wei-ling last month, Kevin LAU had not yet been attacked. At the meeting I cited a lot of examples on behalf of the Neo Democrats to prove gravity of the situation of freedom of the press in Hong Kong.

President, it has been 36 days since LI Wei-ling was brutally dismissed by Hong Kong Commercial Broadcasting Company Limited (Commercial Radio). I strongly believe the dismissal of LI Wei-ling is absolutely related to freedom of the press and the freedom of speech. Subsequent rumours about Commercial

Radio making its outgoing staff sign a confidentiality agreement undertaking to keep their mouths shut on the incident of LI Wei-ling is proof that there must be an inside story. President, Commercial Radio is an organization which operates with a broadcasting licence and uses the airwaves and is subject to the regulation of the Communications Authority (CA) under the Telecommunications Ordinance. Under the laws of Hong Kong, the Government, the CA and the Legislative Council have the power to require Commercial Radio to give an explanation on this matter. But much to our regret, the Government and the CA have given up investigation, which means that only the Legislative Council can now exercise its power to investigate the incident. If Members vote down the motion proposed by Ms Claudia MO today, the truth of the brutal dismissal of LI Wei-ling would be buried for good.

President, after the occurrence of this incident, there has been no substantive evidence proving that LEUNG Chun-ying is the string puller behind the dismissal of LI Wei-ling. But why has the political circle of Hong Kong changed or even degenerated to such a low level where a case without evidence for conviction means that it should be disregarded? Given the precedent of LEUNG Chun-ying exerting pressure on Commercial Radio upon its licence renewal, we can say that LEUNG Chun-ying absolutely has the motive to suppress Commercial Radio, suppress the freedom of speech and suppress freedom of the press. When LEUNG Chun-ying was running in the Chief Executive Election in 2012, another candidate, Henry TANG, disclosed that in 2004 when LEUNG Chun-ying was the Convenor of the Executive Council, he strongly suggested that the 12-year licence tenure of Commercial Radio be reduced to six years, subject to an interim review every three years. This was meant to be a straitjacket for restricting Commercial Radio's programmes and comments.

So, what happened as a result then? The two well-known radio programme comperes, Albert CHENG and WONG Yuk-man, were silenced one after the other. Albert CHENG said that the pressure of the political conditions had made it impossible for him to speak freely in his programme and so, he had to go off the air. He even pointed out later that representatives of Mainland organizations and someone with triad background had told him to stop levelling criticisms and attacks at the SAR Government, while WONG Yuk-man took himself off the air on the ground that he needed a break for he felt exhausted both physically and mentally, but then he said that he had been advised to shut up. Then their successor, Allen LEE, took over to be the host and after a very short

while, he said that officials of the Central Authorities and senior members of the business sector had kept on approaching him for a "chat" and former Mainland officials even rang him up late at night, making he feel that his family was under threat, and he finally announced his resignation. For these three cases, there was no evidence a decade ago; nor was any investigation conducted a decade ago. Now that a decade has passed and here comes again the critical time when Commercial Radio's licence is due for renewal. We have again seen history repeating itself.

President, this incident of the dismissal of LI Wei-ling has aroused huge public concern. If the Legislative Council can invite the parties concerned, namely, the representative of the management of Commercial Radio, Stephen CHAN, LI Wei-ling, and the representatives of the Commerce and Economic Development Bureau and the CA to come here to explain their positions and views while answering questions from Members, this will absolutely be helpful to allaying public concerns. If they think that they are innocent, this can even help clear their names. So, to Members who support invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) — I personally very much support it — what we wish to do is to enable the public to gain a fuller understanding of the people involved through the inquiry, so that consideration can be given to their past words and deeds, the circumstantial factors, the unusual situations and procedures, and so on, in order to complete the investigation, and the conclusions drawn through summing up the findings will be the truth acceptable to the public. This is the reason why I think it is appropriate to handle the matter by invoking the P&P Ordinance.

President, white terror is reigning over us and an invisible hand is continuously extending towards the media in Hong Kong: Media bosses who accepted amnesty offered by the Central Authorities have become Hong Kong Deputies to the National People's Congress and Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference; red capital is moving southward to acquire our newspapers and television stations, while local opposition voices and dissidents have been harmonized one after another; newspapers or media organizations which are understood or regarded as the opposition or the "bad boys" have been suppressed by withdrawing advertisements from them. Similar cases are indeed too numerous to mention.

President, we hope that by invoking the P&P Ordinance to inquire into the firing or brutal dismissal of LI Wei-ling, the incident can be investigated with the powers that can be exercised by the Legislative Council, in order to decipher the hidden truth. We hope to prevent members of the media, especially those who are outspoken, from being silenced one after another in the same way by the powers that be. This can also stop the chilling effect from further hurting other journalists which would otherwise undermine further freedom of the press in Hong Kong.

I will vote in support of Ms Claudia MO's motion, and I call on Members to address squarely the situation where freedom of the press and the freedom of speech are in jeopardy and fulfil their duties as Members of the Legislative Council by voting for this motion. President, I so submit.

MR IP KIN-YUEN (in Cantonese): President, at this meeting of the Legislative Council today there are two motion debates relating to freedom of the press in Hong Kong. One is about the incident of the immediate termination of the contract of Ms LI Wei-ling, a programme host of Hong Kong Commercial Broadcasting Company Limited (Commercial Radio), and the other is about the incident of attack on Mr Kevin LAU, the former chief editor of *Ming Pao*. This is indeed most pathetic to Hong Kong which has long taken pride in its freedom of the press. All the citizens of Hong Kong, including all Members in this Chamber, can enjoy the various benefits brought to them by freedom of the press every day. It is now time we spoke up in defence of freedom of the press.

President, journalists play a vitally important role. They are responsible for disseminating information, so that we know the real situation of society and the Government. They also help monitor the Government and even monitor the Legislative Council, so that when we see various problems cropping up, remedies can be devised in time. They also provide different viewpoints on various issues, so that we have the opportunity to think about them from different angles. Therefore, freedom of the press is, in fact, closely related to the freedom of speech and freedom of information, and the various freedoms are the cornerstone of a democratic society and also the cornerstone of a modern society. Freedom of the press enables the public to receive and publish information on different positions or stances, which includes the spirit of rational discussion in the process. Freedom of the press is indispensable to our pursuit for a democratic and pluralistic society. Freedom of the press is also a safeguard for

the realization of other freedoms. When other freedoms are violated and jeopardized, the media can expose such incidents for public information, producing the pressure of public opinions and ensuring that justice is upheld.

Let me cite an example. In 2007 when I was teaching at the Hong Kong Institute of Education (HKIEd), there was an incident involving the HKIEd. Some government officials requested the HKIEd to dismiss me, which amounted to serious interference with the academic freedom and institutional autonomy of the HKIEd. After the occurrence of this incident, it was not known to the public for some time, except for the rumour circulating on the HKIEd Intranet. Had it not been known to the community, this incident might have unfolded according to the script and that is, they would have dismissed me successfully. But I am grateful for the support provided by the press sector and public opinions in various sectors of the community. The *Hong Kong Economic Journal* and *South China Morning Post* reported the incident, striking a chord in the whole community. The discussions conducted in various sectors of the community and the concerns expressed by them had eventually given me a reasonable platform. This platform was a court-like hearing committee set up by the Government, which was made responsible for handling the incident, and justice was finally seen to be done. From this incident, I gained the profound understanding that I could be treated fairly and openly not only because we have a representative assembly and it is not only because of the provisions on academic freedom in the Basic Law. More importantly, it is because we enjoy freedom of the press and the press sector is free to report the persecution of academics by senior officials using their powers. Had there not been freedom of the press, we might not have known that the academic freedom and institutional autonomy had been violated. Therefore, freedom of the press is the underpinning of various other freedoms. Without freedom of the press, we might be deprived of the academic freedom and the freedom of speech even without our knowing it.

Article 27 of the Basic Law provides that "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.". Article 16 of the Hong Kong Bill of Rights also provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.". All of these provisions in law have provided sufficient safeguards for our freedom of the press but much to our

regret, it is inadequate to rely solely on legislation. Reporters Without Borders published in February 2014 the latest World Press Freedom Index, showing that Hong Kong's ranking had dropped from last year's 58th to the 61st. A fall from the 58th to the 61st means falling from a low ranking to an even lower one. But Members may have forgotten that 12 years ago in 2002 when this ranking was published for the first time, we were in the 18th place. That our ranking should have plunged 43 places from the 18th is too appalling.

Since the start of the 2014, there have been incidents happening one after another: Major clients of *Apple Daily* and *am730* withdrew their advertisements from the newspapers; *Ming Pao* replaced its chief editor; a number of columns in *Ming Pao* which commented on the furore in *Ming Pao* were taken out from the Toronto edition of *Ming Pao* for several days in a row; a well-known radio programme compere of Commercial Radio, LI Wei-ling, who always criticizes the Chief Executive, was suddenly dismissed; and Mr Kevin LAU, the former chief editor of *Ming Pao*, was attacked. From this spate of incidents, Hong Kong people cannot but suspect that certain forces have taken a series of actions to increase their strength in restraining the media in Hong Kong.

The media is a public instrument of society. Commercial Radio is a broadcasting organization licensed by the Government. Members of the public are no doubt the biggest stakeholders. Ms LI Wei-ling, a programme host of Commercial Radio, was immediately dismissed without her knowing it. Not only did Commercial Radio fail to give any explanation. They even did not allow Ms LI to return to her office to pack up her belongings. I consider such brutal practices incredibly shocking and inconceivable. Concerning this incident of Ms LI Wei-ling being taken off the air, irrespective of whether Members would see it as an isolated incident or one related to the replacement of the chief editors of *Ming Pao* and *Hong Kong Economic Journal* and the withdrawal of advertisements from *am730* and *Apple Daily*, a most obvious objective fact is that the freedoms of the press and of speech in Hong Kong are consistently being eaten into and the media sector in Hong Kong is gradually entering the severe winter.

It has all along been rumoured that the Central Authorities have given Chief Executive LEUNG Chun-ying four major political tasks, requiring him to complete them within his term. They include enacting legislation on Article 23 of the Basic Law, promoting national education, implementing constitutional

reform proposals, and purging the media, including Radio Television Hong Kong. LI Wei-ling has said explicitly that her dismissal was the result of the suppression by LEUNG Chun-ying's Government and Commercial Radio kneeling under the curse of licence renewal. Therefore, it is most reasonable for the public to demand to know the reasons for Commercial Radio's immediate termination of the contract of LI Wei-ling. Commercial Radio should give a clear explanation to the public and cannot muddle through by making one or two remarks. Was it because the senior management disliked LI Wei-ling? Was it because LI Wei-ling had said something which offended her superiors? Or was it because Commercial Radio would wish to renew its licence and was under the direct pressure of the Government? Or was it just Commercial Radio taking the initiative to curry favour with and declare allegiance to the Government in order to stand a higher chance of a successful licence renewal? The public need a convincing answer, and they need to know the government officials involved. But since these answers still have not been provided after such a long time, I therefore very much support that a select committee can be formed to inquire into the incident with the powers conferred by the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance), in order to provide a clear explanation to the public.

I trust that members of the media certainly know better than I do that an invisible hand is now hovering in the air. If we do not come forth to voice out, we may not have a chance to come forth tomorrow. As a licensed broadcaster, Commercial Radio bears important social responsibilities, and when it has brutally dismissed an experienced host who is popular and outspoken and when the party in question said that she had been treated in such a way because of political pressure, this is absolutely not just the personal business of Ms LI; nor is it just the business of Commercial Radio alone, but a matter involving the interest of society as a whole and the core values of Hong Kong. For this reason, the management of Commercial Radio and the LEUNG Chun-ying Administration must openly give an explanation to the community, rather than muddling through by saying that this is a "commercial decision" or "dispute on personnel matters". If they have not done anything wrong, they should not be worried about being investigated. Here, I call on each and every member of the public who cares about Hong Kong, especially members of the education sector, to firmly and resolutely defend freedom of the press by earnestly practising what we preach and saying "No" to the evil hand meddling in freedom of the press.

Lastly, if the Legislative Council gives up invoking the P&P Ordinance to demand a due explanation, it will actually be no different from giving up an important tool to exercise checks and balances on the Government. Therefore, I implore Members to support this motion today.

I so submit.

MR NG LEUNG-SING (in Cantonese): President, as a person doing business in Hong Kong, I find it difficult to understand why a staff change in a commercial organization, namely, Hong Kong Commercial Broadcasting Company Limited (Commercial Radio), would be presented before the Legislative Council for a debate and what is more, Members are even seeking to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to investigate it. We can frequently see all kinds of staff change taking place in media organizations in Hong Kong and labour disputes may even be resulted in some cases. If the Legislative Council invariably has to step in and if everything is politicized, which media tycoon will wish to make investments in Hong Kong in the future?

Regarding this incident involving Commercial Radio, the programme host concerned, Ms LI, openly asserted that her dismissal by her employer, Commercial Radio, was attributed to political pressurization by the Chief Executive. This is no doubt a very serious allegation, but Ms LI said that it was made purely out of her personal feeling. Coincidentally, Dr KWOK has been infected and presented the same symptom today as he had an illusion during the breakfast meeting this morning, and perhaps he might start developing early psychosis. If no substantive evidence can be provided and worse still, if stories are merely fabricated, and in a society where the rule of law prevails, if the person affected cannot even provide the evidence but merely said, "I am the evidence", there is really no way to ascertain it. Colleagues of the Legislative Council who act according to law, what is there for us to investigate under these circumstances? It is now proposed that a select committee be set up but according to the information provided at the meeting of the Legislative Council Commission yesterday, it takes more than \$10 million of public money to form the investigation team, so is it worth it? According to people from various sectors of the community who have contacted or conversed with Ms LI in the air

before or people's impression after listening to her programme, her so-called personal style is often just sheer exaggeration in order to play to the gallery. Her arguments are grossly biased and in her programme, it was often the case that she did all the talking by herself without letting others chip in. I have had contacts with her before and it was also what happened. She obviously defended a certain side overwhelmingly and adopted an approach of making use of the public instrument for private purposes. This is hardly credible and neutral to the public. Therefore, if this "imperial sword" of the Legislative Council is drawn simply based on her side of the story, the public would ask Members of the Legislative Council whether such a handling approach is much too trifling.

Speaking of freedom of the press, Commercial Radio said that it has been their direction to criticize the SAR Government freely and Ms LI was not the only host who did that. But Commercial Radio openly stated that it did not feel the political pressure alleged by Ms LI, and various hosts have continued to speak their minds freely. Commercial Radio also has some long-standing programmes that make a mockery of the administration of the SAR Government and these programmes have been aired continuously for a long time without interruption. That there should be allegations of interference in spite of such degree of freedom is inexplicable indeed.

It is reflected that Ms LI has frequently criticized her employer, Commercial Radio, as well as her superiors in her programme. I think, to the boss of a media organization who pays for the operation of the company and even to the supervisors responsible for the management of the company, irrespective of their political views and how magnanimous they are, they will find it difficult to tolerate their subordinates consistently and arbitrarily hurling criticisms at them openly every day.

President, if the Legislative Council invokes the P&P Ordinance to investigate this incident, it is highly likely that we would be involved in the internal management and even mere personal grudges in an individual business organization without anything to do with public affairs or public interest. I recall that some Members mentioned incidents about radio hosts going off the air earlier on. It is laughable that concerning the so-called political interference, how much evidence could be provided to sustain such allegation in the wake of these incidents? There are personal grudges, and financial disputes are involved too. If the powers of the Legislative Council are invoked lightly, this Council

would likely be criticized by the public for really having degenerated to a state where we make use of the public instrument for private purposes. Colleagues of this Council should indeed seriously think twice. Thank you, President.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 2.30 pm tomorrow.

Suspended accordingly at nine minutes to Ten o'clock.

Product Eco-responsibility (Amendment) Bill 2013

Committee StageAmendments moved by the Secretary for the Environment

<u>Clause</u>	<u>Amendment Proposed</u>
New	By adding before clause 1— “Part 1 Preliminary”.
1(2)	By deleting everything after “operation on” and substituting “1 April 2015.”.
New	By adding before clause 2— “Part 2 Amendments to Product Eco-responsibility Ordinance”.
2	By deleting “20” and substituting “21”.
4	In the proposed definition of <i>body corporate</i> , in paragraph (a), by deleting “Cap. 32” and substituting “Cap. 622”.
New	By adding— “16A. Part 3, Division 6 added Part 3, after Division 5— Add “Division 6—Savings and Transitionals

30. Savings and transitional provisions relating to Product Eco-responsibility (Amendment) Ordinance 2014

Schedule 5 provides for the savings and transitional arrangements relating to the Product Eco-responsibility (Amendment) Ordinance 2014 (of 2014).”.”.

- 18 By deleting subclause (1) and substituting—
- “(1) Schedule 2, section 1(1)—
- Repeal**
- “Subject to subsection (2), this”
- Substitute**
- “This”.”.
- 18(4) By deleting the proposed section 1(1)(d) and substituting—
- “(d) a bag that only contains an item of food, drink or medicine for human or animal consumption where—
- (i) the item is in a frozen or chilled state; or
- (ii) the item is not contained in airtight packaging;”.
- 18(6) By deleting the proposed section 1(3).
- New By adding—

“21. Schedule 5 added

At the end of the Ordinance—

Add

“Schedule 5 [s. 30]

**Savings and Transitional Provisions
Relating to Product Eco-responsibility
(Amendment) Ordinance 2014**

1. Interpretation

(1) In this Schedule—

pre-amended Ordinance (《原有條例》) means

this Ordinance as in force immediately before 1 April 2015;

PSB Regulation (《膠袋規例》) means the Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603 sub. leg. A) as in force immediately before 1 April 2015;

specified form (指明表格) means a form specified by the Director under section 9 of this Schedule.

- (2) In this Schedule, a reference to a provision having a continuing effect under Cap. 1 is a reference to the provision having a continuing effect by the operation of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).
- (3) A word or an expression used in this Schedule, and defined or otherwise explained in section 17 of the pre-amended Ordinance or section 2 of the PSB Regulation, has the same meaning as in that section.
- (4) The saving mentioned in this Schedule for the effect of a provision of the pre-amended Ordinance extends to any other provision of that Ordinance or the PSB Regulation—
 - (a) that defines a word or an expression used in the provision;
 - (b) in accordance with which the provision is to be construed; or
 - (c) by reference to which the provision is to operate.

2. Returns and payment of levies due after 31 March 2015

- (1) A person who was a registered retailer at any time within the period beginning on 1 January 2015 and ending on 31 March 2015 must ensure that—
 - (a) a separate return in respect of each registered retail outlet of the person for that period is submitted to the Director;
 - (b) the return is submitted to the Director in writing and in the specified form on or before 30 April 2015; and
 - (c) the return states the information specified in subsection (2).

- (2) The information is—
 - (a) the total number of plastic shopping bags delivered to the registered retail outlet during that period, except for any bags to be provided from an exempted area of the retail outlet that is subject to the criteria for a Type 2 exemption;
 - (b) the total number of plastic shopping bags provided directly or indirectly to customers during that period from—
 - (i) the retail outlet; or
 - (ii) if there is an exempted area in the retail outlet, any area of the retail outlet that is not exempted;
 - (c) the total amount of levies payable for the bags referred to in paragraph (b); and
 - (d) if an application for registration or deregistration in respect of the retail outlet is approved during that period, the date on which the retail outlet becomes registered or deregistered.
- (3) On or before 30 April 2015, the person must also pay to the Government the total amount of levies stated in the return in person, by post or by any other means according to the payment instructions contained in the specified form of the return.
- (4) A person who contravenes subsection (1) or (3) commits an offence and is liable on conviction to a fine at level 5.
- (5) It is a defence to a charge under subsection (4) for the person charged to prove that the person exercised due diligence to avoid the commission of the offence.

3. Surcharges for offences in respect of payment of levies

- (1) This section applies if, on or after 1 April 2015, a person is convicted of an offence under either of the following provisions in respect of an amount of levies stated in a return that the person has failed to pay—
 - (a) section 24(3) of the pre-amended Ordinance having a continuing effect under Cap. 1;

- (b) section 2(4) of this Schedule.
- (2) The person is also liable to pay—
 - (a) a surcharge of 5% of the amount of levies that are outstanding at the expiry of the due date; and
 - (b) an additional surcharge of 10% of the total amount of levies and the surcharge referred to in paragraph (a) that are outstanding at the expiry of 6 months after the due date.
- (3) In this section—

due date (到期日), in relation to levies stated in a return, means the 30th day after the end of the period to which the return relates.

4. Record keeping

- (1) A person who has submitted a return under section 2(1) of this Schedule must ensure that the records and documents specified in subsection (2) relating to the return are kept until 31 March 2020.
- (2) The records and documents are records, invoices, receipts, delivery notes or any other documents that contain sufficient details to enable the Director to readily verify the following matters in respect of each registered retail outlet of the person—
 - (a) the number of plastic shopping bags provided to a customer in each retail transaction of the retail outlet, except for any bags provided from an exempted area of the retail outlet;
 - (b) the amount charged for those bags by the person under section 23(1) of the pre-amended Ordinance;
 - (c) the number of plastic shopping bags contained in each shipment of plastic shopping bags to the retail outlet, except for any bags to be provided from an exempted area of the retail outlet that is subject to the criteria for a Type 2 exemption; and
 - (d) the number of plastic shopping bags procured by the person and relating to each shipment referred to in paragraph (c).
- (3) A person who contravenes subsection (1) commits an offence and is liable on

conviction to a fine at level 5.

- (4) It is a defence to a charge under subsection (3) for the person charged to prove that the person exercised due diligence to avoid the commission of the offence.

5. Assessment notice for conviction or acquittal before 1 April 2015

- (1) This section applies if, before 1 April 2015—
 - (a) the Director may make an assessment for the plastic shopping bags provided by a person, and serve an assessment notice on the person, under section 26(2) of the pre-amended Ordinance but has not done so; or
 - (b) the Director has served an assessment notice on a person under that section.
- (2) Section 26(2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) of the pre-amended Ordinance continues to apply in relation to an assessment under subsection (1)(a) as if a reference to a registered retailer in that section were a reference to the person.
- (3) Section 26(3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) of the pre-amended Ordinance continues to apply in relation to a notice under subsection (1)(b) as if a reference to a registered retailer in that section were a reference to the person.
- (4) It is a defence to a charge under section 26(7) of the pre-amended Ordinance having a continuing effect under subsection (2) or (3) for the person charged to prove that the person exercised due diligence to avoid the commission of the offence.

6. Assessment notice for conviction or acquittal on or after 1 April 2015

- (1) This section applies if, on or after 1 April 2015, a person—
 - (a) is convicted of an offence under section 9 of this Ordinance relating to any record, document or information on an amount of levies stated in a return submitted by the person in respect of a period under either of the following provisions—

- (i) section 24(1) of the pre-amended Ordinance;
 - (ii) section 2(1) of this Schedule;
 - (b) is acquitted of an offence mentioned in paragraph (a) in reliance on the defence under section 9 of this Ordinance;
 - (c) is convicted of an offence under section 24(3) of the pre-amended Ordinance having a continuing effect under Cap. 1 for failing to submit a return in respect of a period according to the requirements in section 24(1) of the pre-amended Ordinance;
 - (d) is acquitted of an offence mentioned in paragraph (c) in reliance on the defence under section 27 of the pre-amended Ordinance having a continuing effect under Cap. 1;
 - (e) is convicted of an offence under section 2(4) of this Schedule for failing to submit a return according to the requirements in section 2(1) of this Schedule; or
 - (f) is acquitted of an offence mentioned in paragraph (e) in reliance on the defence under section 2(5) of this Schedule.
- (2) The Director may—
- (a) assess the amount of levies payable for the plastic shopping bags provided by the person during that period; and
 - (b) serve an assessment notice on the person demanding payment of—
 - (i) that assessed amount; or
 - (ii) if the person has already paid part of that amount under section 24 of the pre-amended Ordinance, or under section 2 of this Schedule, the balance of that amount.
- (3) The Director may replace an assessment notice with another assessment notice served for that purpose.
- (4) An assessment notice served under this section in respect of plastic shopping bags provided during a period may only be served within 5 years after the end of that

- period.
- (5) An assessment notice served under this section must also state—
 - (a) the reasons for serving the notice;
 - (b) how the amount of levies assessed by the Director is calculated;
 - (c) when and how payment is to be made; and
 - (d) the right of the person to appeal against the notice.
 - (6) The person must pay the amount of the demanded levies under an assessment notice within a period of 30 days after the date on which the notice is served.
 - (7) A person who contravenes subsection (6) commits an offence and is liable on conviction to a fine at level 5.
 - (8) A person who is convicted of an offence under subsection (7) is also liable to pay—
 - (a) a surcharge of 5% of the amount of levies that are outstanding at the expiry of the period referred to in subsection (6); and
 - (b) an additional surcharge of 10% of the total amount of levies and the surcharge referred to in paragraph (a) that are outstanding at the expiry of 6 months after the period referred to in subsection (6).
 - (9) If an appeal is made under section 7 of this Schedule against an assessment notice served under this section, any amount of levies or surcharges that is outstanding remains payable under this section pending the determination of the appeal unless the Director decides otherwise.
 - (10) The Director may at any time withdraw an assessment notice served under this section by serving a withdrawal notice to that effect.
 - (11) A notice under this section is regarded as duly served when it is sent by post to the last address provided by the person to the Director.
 - (12) It is a defence to a charge under subsection (7) for the person charged to prove that the person exercised due diligence to avoid the

commission of the offence.

7. Appeal

- (1) A person who is aggrieved by a decision of a public officer relating to an assessment notice served under either of the following provisions may, within 21 days after the date on which the notice is served on the person, appeal to the Appeal Board by giving a notice of appeal to the Director stating the reasons for the appeal—
 - (a) section 26 of the pre-amended Ordinance having a continuing effect under section 5 of this Schedule;
 - (b) section 6 of this Schedule.
- (2) For the purposes of Division 5 of Part 2 of this Ordinance, an appeal made under subsection (1) is to be regarded as an appeal made under section 13 of this Ordinance.
- (3) In this section—

Appeal Board (上訴委員會) has the meaning given by section 12 of this Ordinance.

8. Levies and surcharges are recoverable as civil debt

An outstanding amount of levies or surcharges payable under section 2, 3 or 6 of this Schedule is recoverable as a civil debt due to the Government.

9. Specified form

- (1) The Director may specify the forms to be used under this Schedule.
- (2) A specified form may require that—
 - (a) it be completed in a specified way;
 - (b) specified information or documents be included in or attached to it; and
 - (c) it be submitted in a specified manner.
- (3) If any such requirement is not complied with in relation to a specified form for submitting a return under section 2(1) of this Schedule, the return is to be treated as not submitted in the specified form.
- (4) The Director is to make copies of a specified form available—
 - (a) during office hours at the office of the Director; and

(b) through any other means that the Director considers appropriate.

10. Provisions of this Schedule not to derogate from section 23 of Interpretation and General Clauses Ordinance

The provisions of this Schedule are in addition to, and not in derogation of, section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).”.

Part 3

**Amendments to Product Eco-responsibility
(Plastic Shopping Bags) Regulation**

22. Product Eco-responsibility (Plastic Shopping Bags) Regulation amended

The Product Eco-responsibility (Plastic Shopping Bags) Regulation (Cap. 603 sub. leg. A) is amended as set out in sections 23, 24 and 25.

23. Section 2 amended (interpretation)

Section 2—

Repeal subsection (1).

24. Parts 2 to 5 repealed

Parts 2, 3, 4 and 5—

Repeal the Parts.

25. Part 6 and Schedule added

At the end of the Regulation—

Add

“Part 6

**Notices and Certificates in relation to and
Payment of Fixed Penalty**

17. Penalty notice

A penalty notice under section 28A(2) of the Ordinance must be in accordance with Form 1 in the Schedule.

18. Demand notice

- (1) A demand notice under section 28D(2) of the Ordinance must be in accordance with Form 2 in the Schedule.
- (2) A demand notice is valid only if the name of an authorized officer acting on behalf of the Director is signed or printed on the notice.

19. Certificate of posting demand notice

A certificate of posting a demand notice under section 28D(5) of the Ordinance must be in accordance with Form 3 in the Schedule.

20. Evidentiary certificate

An evidentiary certificate under section 28G(5)(c) of the Ordinance must be in accordance with Form 4 in the Schedule.

21. Payment of fixed penalty

- (1) The payment of the fixed penalty for a penalty notice or demand notice must be made—
 - (a) by post addressed to the Treasury;
 - (b) at a counter of a post office other than a mobile post office;
 - (c) through an automated teller machine of a bank;
 - (d) by phone by using the service commonly known as PPS;
 - (e) through the Internet; or
 - (f) through the phone-banking service provided by a bank.
- (2) A person who wishes to pay the fixed penalty in accordance with subsection (1)(a) or (b) must deliver the penalty notice or demand notice together with the payment in accordance with the payment instructions as set out in the notice.
- (3) If a payment is made in accordance with this section, it must be of—
 - (a) the amount of the fixed penalty specified in the penalty notice or demand notice; or
 - (b) if the payment is made for more than one notice, the total amount of fixed

penalties specified in the notices.

- (4) A payment made in accordance with subsection (1) must not include, or form part of, an amount for a matter other than a matter specified in the penalty notice or notices, or the demand notice or notices.
- (5) If a payment of the fixed penalty is made otherwise than in accordance with this Regulation, the fixed penalty is treated as unpaid and the Director of Accounting Services may return the amount of the payment to the payer.

Schedule

[ss. 17, 18,
19 & 20]

Forms

附註(請細心閱讀)

NOTES (Please read carefully)

1. 如你在本通知書發出當日後 21 天內繳付定額罰款，即可解除就本通知書所指明的罪行而須負的法律責任。你須按照繳款辦法繳付款項。
2. 繳款通知書將會在適當時候發出，如你已依照本通知書繳付定額罰款，則無須理會該通知書。
3. 如你沒有按照繳款通知書繳付罰款，亦沒有通知環境保護署長你意欲就該罪行的法律責任提出抗辯，則可能被判處附加罰款。
4. 如你提供明知是虛假的或具誤導性的關於你的出生日期、你或你所屬的業務或法團的姓名、名稱、地址或聯絡電話號碼的任何詳情，以充作遵從根據《產品環保責任條例》(第 603 章)第 28C(2)條提出的要求，即屬犯罪，可予檢控。

繳款辦法

PAYMENT INSTRUCTIONS

1. 你須按下述任何一種方法繳付定額罰款 —
 - (a) **透過銀行自動櫃員機繳款**
 你可在任何貼有「繳費服務」標誌的自動櫃員機繳付款項。請選擇「政府機構」，然後選擇「塑膠購物袋(定額罰款)」，並輸入本通知書下半部所示的 16 位數字編號。

 你亦可在大部分貼有「繳費易」標誌的自動櫃員機繳付款項。請選擇「輸入商戶編號」及輸入「6746」，然後輸入本通知書下半部所示的 16 位數字編號。
 - (b) **用電話使用「繳費靈」繳款**
 繳款前，請先致電 18013 登記本通知書。請輸入「商戶編號」「6246」。如欲繳款，請致電 18033，並按照指示輸入所需資料。如需查詢，請致電「繳費靈」熱線：2311 9876。
 - (c) **透過互聯網繳款**
 你可透過銀行及「繳費靈」(<http://www.ppskh.com>)在互聯網上提供的繳費服務繳付款項(詳情請瀏覽庫務署網站 <http://www.try.gov.hk>)。繳款時，請選擇「塑膠購物袋(定額罰款)」。
 - (d) **透過電話理財服務繳款**
 你可使用銀行提供的電話理財服務，透過有關的繳費服務繳付款項。
 - (e) **以郵遞方式繳款**
 你可把支票、銀行匯票或本票連同本通知書下半部的「郵遞繳款回條」寄往香港告士打道郵政局信箱 28000 號庫務署收。請將本通知書下半部所示的 16 位數字編號寫在支票、銀行匯票或本票背面。請勿郵寄現金。請注意：以郵遞方式繳款將不會獲發收據。有關的郵戳日期會被視作繳款的日期。
 - (f) **透過郵政局櫃位繳款**
 你可在任何郵政局(流動郵政局除外)的櫃位繳付款項。請保持本通知書完整並於繳款時出示。
 1. You may discharge liability for the offence specified in this notice by paying the Fixed Penalty within 21 days after the date of the issue of this notice. You must make the payment in accordance with the Payment Instructions.
 - A Demand Notice will be issued in due course. You may ignore the Demand Notice only if you have made prior payment on this notice.
 - If you fail to pay in accordance with the Demand Notice and do not notify the Director of Environmental Protection that you wish to dispute liability for the offence, an additional penalty may be imposed.
 - If you, in purported compliance with a requirement made under section 28C(2) of the Product Eco-responsibility Ordinance (Chapter 603), supply any particular of your date of birth, or the name, address or contact telephone number of you or your business or corporate, which you know to be false or misleading, you will commit an offence and will be liable to prosecution.
1. You must pay the Fixed Penalty by one of the following methods—
 - (a) **Payment through Bank Automated Teller Machine (ATM)**
 You can pay at any ATM affixed with “Bill Payment” signage. Please select “Government” and then “Plastic Shopping Bags (Fixed Penalty)”, and key in the 16-digit serial number shown at the lower portion of this notice.

 You can also pay at most ATMs affixed with a “JET Payment” signage. Please select “Merchant Code Entry” and key in “6746”, then key in the 16-digit serial number shown at the lower portion of this notice.
 - (b) **Payment by Phone using “PPS”**
 Before making payment, please dial 18011 to register this notice. Please key in the “Merchant Code” of “6246”. For making payment, please dial 18031 and follow the instructions to enter the information required. For enquiries, please call “PPS” Hotline: 2311 9876.
 - (c) **Payment through Internet**
 You can pay through the bill payment service provided by banks and “PPS” (<http://www.ppskh.com>) on the Internet (for details, please visit the Treasury’s website <http://www.try.gov.hk>). Please select “Plastic Shopping Bags (Fixed Penalty)” for payment.
 - (d) **Payment through Phone-banking Service**
 You can pay through the bill payment service by using the phone-banking service provided by banks.
 - (e) **Payment by Post**
 You can pay by sending a cheque, bank draft or cashier order, together with the “Slip for Payment by Post” at the lower portion of this notice, to the Treasury, P.O. Box Number 28000, Gloucester Road Post Office, Hong Kong. Please write the 16-digit serial number shown at the lower portion of this notice on the back of the cheque, bank draft or cashier order. You must not send cash through the post. Please note that no receipt will be issued for payment by post. The date of the relevant post mark will be regarded as the date of payment.
 - (f) **Payment at Post Office Counters**
 You can pay at a counter of any post office (other than a mobile post office). Please keep this notice

繳款後本通知書會發回收據。如欲查詢各郵政局地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽香港郵政網站 <http://www.hongkongpost.com>。

intact and produce it at the time of payment. It will be receipted and returned to you upon payment. For addresses and opening hours of post offices, please call the Hongkong Post's Hotline: 2921 2222 or visit Hongkong Post's website <http://www.hongkongpost.com>.

2. 如你透過自動櫃員機、使用「繳費靈」、透過互聯網或電話理財服務繳款，請輸入本通知書下半部所示的 16 位數字編號。於到期日午夜前繳款會被視作準時繳交。
2. If you make a payment through ATM, by "PPS", through Internet or phone-banking service, please key in the 16-digit serial number shown at the lower portion of this notice for making payment. Payment made before midnight on the due date will be regarded as on-time payment.
3. 任何支票、銀行匯票或本票均須以「香港特別行政區政府」或「香港特區政府」為收款人，並加以劃線。以支票付款，只在支票首次提交付款銀行獲得兌現的情況下，繳款方為有效。期票不予接受。
3. Any cheque, bank draft or cashier order should be made payable to "The Government of the Hong Kong Special Administrative Region" or "The Government of the HKSAR" and crossed. For payment made by cheque, payment is valid only when the cheque is honoured on the first presentation to the drawee bank. Post-dated cheques will not be accepted.

如就本通知書有任何查詢，請致電環境保護署的查詢熱線電話。

For any enquiry about this notice, please call the enquiry hotline of the Environmental Protection Department.

通知書編號：
Notice Serial Number:

表格 2
FORM 2

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

繳付定額罰款通知書(第 28D(2)條)
NOTICE DEMANDING PAYMENT OF FIXED PENALTY (Section 28D(2))

致：.....全名(先寫姓氏) / 業務或法團名稱*
To: Full Name (Surname first) / Name of Business or Corporate*

地址 / 註冊或主要辦事處地址*為.....
of Address / Registered or Principal Office Address*.....

於.....年.....月.....日.....時.....分，在.....
(地點)發生一宗違反《產品環保責任條例》(第 603 章)第 18A(2)(a) / 18A(3)*條的罪行，你須為此
事件負法律責任。

On (day) (month) (year) at (hour) (minute) at
..... (location) an offence of section 18A(2)(a) / 18A(3)* of the Product
Eco-responsibility Ordinance (Chapter 603) was committed for which you are liable.

本人現要求你在本通知書送達當日後 10 天內繳付定額罰款\$2,000。如你意欲就該罪行的法律
責任提出抗辯，你必須在本通知書送達當日後 10 天內使用附上的通知表格以書面通知本人。
I now demand payment of the Fixed Penalty of \$2,000 within 10 days after the date of service of this
notice. If you wish to dispute liability for the offence, you must notify me in writing within 10 days after
the date of service of this notice using the attached notification form.

如你沒有按照本通知書繳付定額罰款，亦沒有按照本通知書以書面通知本人你意欲就該罪行的
法律責任提出抗辯，本人將向裁判官申請作出命令，命令你繳付定額罰款、相等於該項定額罰
款數額的附加罰款及訟費\$300，即合共\$4,300。

If you fail to pay the Fixed Penalty and do not notify me in writing that you wish to dispute liability for
the offence in accordance with this notice, an application will be made to a magistrate for an order that
you pay the Fixed Penalty, an additional penalty equal to the amount of the Fixed Penalty and \$300 by
way of costs, totalling \$4,300.

* 請刪去不適用者。 * Please delete where appropriate.

日期
Date
環境保護署署長 () 代行
()
For Director of Environmental Protection

請注意 Please note:

1. 如你已繳付上述指明的定額罰款，則無須理會本通知書。
If you have paid the Fixed Penalty specified above, you can ignore this notice.
2. 你應按照背頁所載的繳款辦法繳付款項。
You should make the payment according to the payment instructions set out overleaf.

機印所示款項收訖。 Received the sum printed.

郵遞繳款回條 Slip for Payment by Post

CRC	表格 FORM	編號 SERIAL NUMBER	金額 AMOUNT
139	2		HK\$2,000

<<預印條紋碼 Preprinted Bar Code>>

繳款辦法

PAYMENT INSTRUCTIONS

1. 你須按下述任何一種方法繳付定額罰款 —

(a) 透過銀行自動櫃員機繳款

你可在任何貼有「繳費服務」標誌的自動櫃員機繳付款項。請選擇「政府機構」，然後選擇「塑膠購物袋(定額罰款)」，並輸入本通知書下半部所示的16位數字編號。

你亦可在大部分貼有「繳費易」標誌的自動櫃員機繳付款項。請選擇「輸入商戶編號」及輸入「6746」，然後輸入本通知書下半部所示的16位數字編號。

(b) 用電話使用「繳費靈」繳款

繳款前，請先致電18013登記本通知書。請輸入「商戶編號」「6246」。如欲繳款，請致電18033，並按照指示輸入所需資料。如需查詢，請致電「繳費靈」熱線：2311 9876。

(c) 透過互聯網繳款

你可透過銀行及「繳費靈」(<http://www.ppschk.com>)在互聯網上提供的繳費服務繳付款項(詳情請瀏覽庫務署網站<http://www.trv.gov.hk>)。繳款時，請選擇「塑膠購物袋(定額罰款)」。

(d) 透過電話理財服務繳款

你可使用銀行提供的電話理財服務，透過有關的繳費服務繳付款項。

(e) 以郵遞方式繳款

你可把支票、銀行匯票或本票連同本通知書下半部的「郵遞繳款回條」寄往香港告士打道郵政局信箱28000號庫務署收。請將本通知書下半部所示的16位數字編號寫在支票、銀行匯票或本票背面。請勿郵寄現金。請注意：以郵遞方式繳款將不會獲發收據。有關的郵戳日期會被視作繳款的日期。

(f) 透過郵政局櫃位繳款

你可在任何郵政局(流動郵政局除外)的櫃位繳付款項。請保持本通知書**完整**並於繳款時出示。繳款後本通知書會發回收據。如欲查詢各郵政局地址及辦公時間，請致電香港郵政熱線：2921 2222 或瀏覽香港郵政網站<http://www.hongkongpost.com>。

2. 如你透過自動櫃員機、使用「繳費靈」、透過互聯網或電話理財服務繳款，請輸入本通知書下半部所示的16位數字編號。於到期日午夜前繳款會被視作準時繳交。

3. 任何支票、銀行匯票或本票均須以「香港特別行政區政府」或「香港特區政府」為收款人，並加以劃線。以支票付款，只在支票首次提交付款銀行獲得兌現的情況下，繳款方為有效。期票不予接受。

意欲就罪行的法律責任提出抗辯者請注意

1. You must pay the Fixed Penalty by one of the following methods—

(a) Payment through Bank Automated Teller Machine (ATM)

You can pay at any ATM affixed with “Bill Payment” signage. Please select “Government” and then “Plastic Shopping Bags (Fixed Penalty)”, and key in the 16-digit serial number shown at the lower portion of this notice.

You can also pay at most ATMs affixed with a “JET Payment” signage. Please select “Merchant Code Entry” and key in “6746”, then key in the 16-digit serial number shown at the lower portion of this notice.

(b) Payment by Phone using “PPS”

Before making payment, please dial 18011 to register this notice. Please key in the “Merchant Code” of “6246”. For making payment, please dial 18031 and follow the instructions to enter the information required. For enquiries, please call “PPS” Hotline: 2311 9876.

(c) Payment through Internet

You can pay through the bill payment service provided by banks and “PPS” (<http://www.ppschk.com>) on the Internet (for details, please visit the Treasury’s website <http://www.trv.gov.hk>). Please select “Plastic Shopping Bags (Fixed Penalty)” for payment.

(d) Payment through Phone-banking Service

You can pay through the bill payment service by using the phone-banking service provided by banks.

(e) Payment by Post

You can pay by sending a cheque, bank draft or cashier order, together with the “Slip for Payment by Post” at the lower portion of this notice, to the Treasury, P.O. Box Number 28000, Gloucester Road Post Office, Hong Kong. Please write the 16-digit serial number shown at the lower portion of this notice on the back of the cheque, bank draft or cashier order. You must not send cash through the post. Please note that no receipt will be issued for payment by post. The date of the relevant post mark will be regarded as the date of payment.

(f) Payment at Post Office Counters

You can pay at a counter of any post office (other than a mobile post office). Please keep this notice **intact** and produce it at the time of payment. It will be receipted and returned to you upon payment. For addresses and opening hours of post offices, please call the Hongkong Post’s Hotline: 2921 2222 or visit Hongkong Post’s website <http://www.hongkongpost.com>.

2. If you make a payment through ATM, by “PPS”, through Internet or phone-banking service, please key in the 16-digit serial number shown at the lower portion of this notice for making payment. Payment made before midnight on the due date will be regarded as on-time payment.

3. Any cheque, bank draft or cashier order should be made payable to “The Government of the Hong Kong Special Administrative Region” or “The Government of the HKSAR” and crossed. For payment made by cheque, payment is valid only when the cheque is honoured on the first presentation to the drawee bank. Post-dated cheques will not be accepted.

NOTES FOR THOSE WHO WISH TO DISPUTE LIABILITY FOR OFFENCE

1. 如你意欲就罪行的法律責任提出抗辯，你須簽署附上的通知表格，並在本通知書送達當日後 10 天內將之交付環境保護署署長，以通知環境保護署署長你有此意欲。在裁判官裁定有關申訴前請**不要**繳付定額罰款。
 2. 如你通知環境保護署署長意欲就罪行的法律責任提出抗辯，裁判官將按照《產品環保責任條例》(第 603 章)裁定有關申訴，傳票將會在適當時候向你送達。
 3. 如你在通知環境保護署署長意欲就罪行的法律責任提出抗辯後，在裁判官席前應訊時你並沒有提出免責辯護或你提出瑣屑無聊或無理取鬧的免責辯護，則在定額罰款及有關法律程序中命令的訟費之外，可被判繳付相等於有關定額罰款數額的附加罰款。
1. If you wish to dispute liability for the offence, you should notify the Director of Environmental Protection by signing the attached notification form and delivering it to the Director of Environmental Protection within 10 days after the date of service of this notice for notification of dispute. Please **do not** pay the Fixed Penalty before the complaint is determined by a magistrate.
 2. If you notify the Director of Environmental Protection that you wish to dispute liability for the offence, a magistrate will determine the complaint in accordance with the Product Eco-responsibility Ordinance (Chapter 603) and you will be served with a summons in due course.
 3. If, having notified the Director of Environmental Protection that you wish to dispute liability for the offence, you appear before a magistrate and offer no defence or a defence that is frivolous or vexatious, you are liable to, in addition to the Fixed Penalty and any costs ordered in the proceedings, an additional penalty equal to the amount of the Fixed Penalty.

如就本通知書有任何查詢，請致電環境保護署的查詢熱線電話。

For any enquiry about this notice, please call the enquiry hotline of the Environmental Protection Department.

通知書編號：
Notice Serial Number:

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

致環境保護署署長意欲就罪行的法律責任提出抗辯的通知表格(第 28D(2)條)
NOTIFICATION FORM TO DIRECTOR OF ENVIRONMENTAL PROTECTION
OF WISH TO DISPUTE LIABILITY FOR OFFENCE (Section 28D(2))

致：
環境保護署署長
香港灣仔軒尼詩道 130 號
修頓中心 25 樓
環境保護署
環保法規管理科

To:
The Director of Environmental Protection
Environmental Compliance Division
Environmental Protection Department
25th Floor, Southorn Centre,
130 Hennessy Road,
Wan Chai, Hong Kong

就貴署根據《產品環保責任條例》(第 603 章)第 28D(2)條所送達的通知書(詳情本人經已閱悉)，本人意欲就該通知書所指明的罪行的法律責任提出抗辯，特此通知。
Please take notice that I wish to dispute liability for the offence specified in your notice (particulars of which I have taken notice) served under section 28D(2) of the Product Eco-responsibility Ordinance (Chapter 603).

在適當方格內加「✓」。Tick the appropriate box.

<input type="checkbox"/>	中文全名..... Full name in English (in block letters)
<input type="checkbox"/>	中文全名.....為(業務或法團名稱).....的董事 / 秘書 / 授權人*(請刪去不適用者) Full name in English (in block letters) being the director / secretary / authorized person* (please delete where appropriate) of (name of business or corporate) 公司印章 Company chop

日期
Date

簽名
Signature

* 授權人請附上有關授權書。
* For authorized person, please submit a letter of authorization.

表格 3
FORM 3

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

繳款通知書郵遞證明書(第 28D(5)條)
CERTIFICATE OF POSTING OF DEMAND NOTICE (Section 28D(5))

現證明已於.....年.....月.....日郵寄一份《產品環保責任條例》(第 603 章)第 28D(2)條所指的繳款通知書。該繳款通知書的詳情如下—

This is to certify that on (day) (month) (year) a Demand Notice under section 28D(2) of the Product Eco-responsibility Ordinance (Chapter 603) was posted. The particulars of the Demand Notice are as follows—

編號
Serial Number 繳款通知書的日期
Date of Demand Notice

收件人姓名
Name of Addressee

地址
Address

日期
Date

.....
環境保護署署長 (代行)
()
For Director of Environmental Protection

表格 4
FORM 4

《產品環保責任條例》(第 603 章)
PRODUCT ECO-RESPONSIBILITY ORDINANCE (Chapter 603)

證據證明書(第 28G(5)(c)條)
EVIDENTIARY CERTIFICATE (Section 28G(5)(c))

現證明 —

This is to certify that—

- (a) 於.....年.....月.....日，在.....發生了一宗違反《產品環保責任條例》(第 603 章)第 18A(2)(a)條的罪行，即未有在出售貨品時，就直接或間接向顧客提供的每個塑膠購物袋或經預先包裝的每份為數 10 個或以上的塑膠購物袋，向顧客收取不少於 5 角的款額 / 違反《產品環保責任條例》(第 603 章)第 18A(3)條的罪行，即向顧客提供回贈或折扣，以直接抵銷須就出售貨品時直接或間接向顧客提供的每個塑膠購物袋或經預先包裝的每份為數 10 個或以上的塑膠購物袋，向顧客收取的款額或其任何部分*，.....被指稱須對該罪行負法律責任；
on (day) (month) (year), at, an offence of failing to charge the customer an amount not less than 50 cents for each plastic shopping bag or each pre-packaged pack of 10 or more plastic shopping bags provided directly or indirectly to the customer at the time of the sale, contrary to section 18A(2)(a) / offering rebate or discount to the customer with the effect of directly offsetting the amount or any part of the amount charged for each plastic shopping bag or each pre-packaged pack of 10 or more plastic shopping bags provided directly or indirectly to the customer at the time of the sale, contrary to section 18A(3)* of the Product Eco-responsibility Ordinance (Chapter 603) has been committed for which is alleged to be liable;
- (b) 於.....年.....月.....日，.....的地址 / 註冊或主要辦事處地址*為.....；
on (day) (month) (year), the address / registered or principal office address* of was
- (c) 於.....年.....月.....日前，(a)段所指明的人士 / 業務或法團*沒有就根據《產品環保責任條例》(第 603 章)第 28D(2)條送達、日期為.....年.....月.....日的繳款通知書(編號.....)內所指明的罪行繳付定額罰款，亦沒有通知環境保護署署長其意欲就該罪行的法律責任提出抗辯。
before (day) (month) (year), the person / business or corporate* specified in paragraph (a) had not paid the Fixed Penalty in respect of the offence specified in Demand Notice Serial Number dated (day) (month) (year) served under section 28D(2) of the Product Eco-responsibility Ordinance (Chapter 603) and had not notified the Director of Environmental Protection that the person / business or corporate* wished to dispute liability for the offence.

* 請刪去不適用者。 * Please delete where appropriate.

日期

Date

環境保護署署長 (代行)
()
For Director of Environmental Protection ” ” 。

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Labour and Welfare Bureau to Mr CHEUNG Kwok-che's supplementary question to Question 2

As regards approved cases for extended stay at small group home for mildly mentally handicapped children/integrated small group home, the information is set out below for Members' reference.

Approved cases for extended stay at small group home for mildly mentally handicapped children/integrated small group home
(from the 2009-2010 school year to January 2014)

<i>Main consideration</i>	<i>Number of approved cases for extended stay at small group home after reaching 18 years of age</i>
Inadequate family care and special study needs	9
Inadequate family care	1
Inadequate family care, and awaiting admission to suitable vocational training and care arrangement	1
Total	11

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Mr SIN Chung-kai's supplementary question to Question 6**

As regards the enforcement of the Money Lenders Ordinance (Cap. 163), according to the police's record, during 2011 and 2013, the annual numbers of cases handled by the police concerning the offences under Money Lenders Ordinance, such as carrying on business as a money lender without a licence and lending money at an excessive effective interest rate, were 59, 47 and 48 respectively.

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Mr NG Leung-sing's supplementary question to Question 6**

As regards the enforcement of the Money Lenders Ordinance (Cap. 163), apart from conducting investigations over complaints against money lenders, the police also combat illicit activities related to money lending based on intelligence. For example, in December 2013, Organized Crime and Triad Bureau, together with Crime Headquarters of various Police Regions, mounted an operation codenamed "Keyscroller", in which one money lending company and 12 intermediaries were raided and 34 people were arrested for lending money at an excessive effective interest rate regulated under Money Lenders Ordinance, carrying on business as a money lender without a licence, demanding or receiving any remuneration or reward whatsoever from a borrower or intending borrower, and publishing any advertisement which had contravened the related ordinance.

Appendix IV**WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Mr Albert HO's supplementary question to Question 6**

As regards licensing matters under the Money Lenders Ordinance (Cap. 163), under the Money Lenders Ordinance, the Registrar of Money Lenders (that is, the Registrar of Companies) and the Commissioner of Police may object to an application for licence (including licence renewal) or endorsement of licensee/premises. In such case, the Registrar of Money Lenders will lodge a copy of the notice of objection with the licensing court for the latter to determine the application. The police will take into account all relevant considerations, including the complaints, prosecution and records of warning letters against the money lender, in deciding whether to support the licence application. From 2011 to 2013, the police have raised objection against a total of 100 applications for new licence, renewal of licence or endorsement.