

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 December 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 CYD HO SAU-LAN, J.P.

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 WONG KWOK-KIN, S.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 JAMES TIEN PEI-CHUN, G.B.S., J.P.

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

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

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

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

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

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

THE HONOURABLE TANG KA-PIU, J.P.

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, B.B.S.

MEMBERS ABSENT:

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

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG YUK-MAN

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

PUBLIC OFFICERS ATTENDING:

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

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S.,
J.P.
SECRETARY FOR TRANSPORT AND HOUSING

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

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

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

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

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

THE HONOURABLE 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

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

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

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Designation of Libraries (Amendment) (No. 2) Order 2014	152/2014
Intercountry Adoption (Contracting States) (Amendment) Order 2014	153/2014
Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 (Commencement) Notice 2014	154/2014
Waste Disposal (Refuse Transfer Station) (Amendment) Regulation 2013 (Commencement) Notice	155/2014

Other Papers

- No. 47 — Queen Elizabeth Foundation for the Mentally Handicapped
Report and Accounts 2013-2014
- No. 48 — Social Work Training Fund
Fifty-third Annual Report by the Trustee for the year
ending on 31 March 2014
- No. 49 — Hong Kong Tourism Board
Annual Report 2013/14

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- No. 50 — Office of the Privacy Commissioner for Personal Data,
Hong Kong
Annual Report 2013-14
- No. 51 — Equal Opportunities Commission
Annual Report 2013/14
- No. 52 — Lotteries Fund
The Accounts of the Fund 2013-14
- No. 53 — Police Welfare Fund
Annual Report 2013/2014
- No. 54 — The Police Children's Education Trust and the Police
Education and Welfare Trust
Annual Report 2013/2014
- No. 55 — Brewin Trust Fund
Report of the Brewin Trust Fund Committee on the
Administration of the Fund for the year ended 30 June 2014
- No. 56 — Grantham Scholarships Fund
Report of the Grantham Scholarships Fund Committee on
the Administration of the Fund for the year ended
31 August 2014
- No. 57 — The Sir Murray MacLehose Trust Fund
Trustee's Report for the period of 1 April 2013 to 31 March
2014
- No. 58 — Chinese Temples Fund
Report of the Chinese Temples Committee on the
Administration of the Fund for the year ended 31 March
2014
- No. 59 — General Chinese Charities Fund
Report of the Chinese Temples Committee on the
Administration of the Fund for the year ended 31 March
2014

Report No. 7/14-15 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Administration of Justice (Miscellaneous Provisions) Bill 2014

Report of the Bills Committee on Employment (Amendment) Bill 2014

Report of the Bills Committee on Construction Workers Registration (Amendment) Bill 2014

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Interim Scheme to Extend HOS Secondary Market to White Form Buyers

1. **MR ANDREW LEUNG** (in Cantonese): *President, in 2013, the Government introduced the "Interim Scheme to Extend the Home Ownership Scheme Secondary Market to White Form Buyers" (the Interim Scheme) with a quota of 5 000 for persons meeting the eligibility criteria for the Home Ownership Scheme (HOS) White Form applicants to purchase second-hand HOS flats without payment of land premium. In this connection, will the Government inform this Council:*

- (1) *of the respective numbers of persons aged 35 or below among the Interim Scheme applicants, the persons who were issued Certificates of Eligibility to Purchase and those who have purchased second-hand HOS flats under the Scheme;*
- (2) *whether it has studied the changes in the prices of HOS flats since the introduction of the Interim Scheme, and how this situation compares with the relevant situation in the private housing market; if there are differences between the two, of the reasons for that; and*

- (3) *of the authorities' measures, apart from the new round of Interim Scheme to be rolled out in the middle of next year, to assist members of the public aged 35 or below who aspire, and have the ability, to purchase second-hand HOS flats in buying their own homes?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, there are two categories of eligible applicants under the HOS, namely "Green Form" (GF) and "White Form" (WF) applicants. GF applicants include Public Rental Housing (PRH) tenants and PRH applicants who have passed the detailed eligibility vetting and are due for flat allocation in about a year's time. WF applicants do not satisfy the requirement for GF status but meet the eligibility criteria set by the Hong Kong Housing Authority (HA). For example, for the pre-sale of newly built HOS flats in end-2014, the income and asset limits for family applicants are \$46,000 and \$1,010,000 respectively.

To address the home ownership aspirations of WF applicants and to implement the Chief Executive's election manifesto, after discussion, the HA launched the Interim Scheme in January 2013 to allow 5 000 WF applicants to purchase flats without premium paid in the HOS Secondary Market. The Interim Scheme provides WF applicants with an additional channel previously not available to them to have the opportunity to purchase subsidized sale flats before newly built HOS flats are released onto the market. The Secondary Market covers flats with premium not yet paid under the HOS, the Tenant Purchase Scheme (TPS), and the Flat-for-Sale Scheme of the Hong Kong Housing Society (HKHS). Currently, there are a total of about 380 000 such flats with premium not yet paid.

When the Interim Scheme was first launched in January 2013, the HA received around 66 000 applications. The HA issued 5 000 Approval Letters in two batches. Of these, 3 983 holders of Approval Letters applied for the Certificates of Eligibility to Purchase from the HA, the HKHS, or both. As at the third quarter of this year (that is, end-September), a total of 2 161 applicants have achieved home ownership through the Interim Scheme. We have not kept breakdown of prospective buyers or buyers under the Interim Scheme by their ages, therefore we are not able to provide the related information. As far as we

know, among the applicants who have completed transactions, 218 were one-person applicants while 1 943 were applicants from the family category.

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

Our observation is that flat prices in the HOS Secondary Market rose relatively fast initially after the announcement of the Interim Scheme. This may be due to the fact that some HOS flat owners raised their asking prices in light of the new purchasing power in the market. However, flat prices have stabilized afterwards and generally followed the overall trend of flat prices in the private property market. Overall speaking, from August 2012 (after the announcement of the Interim Scheme) to June 2014, the cumulative increase in flat prices recorded in the HOS Secondary Market is higher than that of small and medium-sized flats in the private property market (with saleable area less than 100 sq m). However, flat prices are subject to the influence of an array of factors including the economy, demand-supply and expectations. We should therefore interpret the figures with care.

The HA's Subsidised Housing Committee (SHC) conducted an initial assessment on the implementation of the Interim Scheme on 24 November 2014, details of which have been uploaded onto the HA's website. As mentioned earlier, until now about 2 200 WF applicants have achieved home ownership through the scheme, without which these persons might have found it difficult to purchase flats in the private property market. While the Interim Scheme is effective to a certain extent, with the experience of only one round of the Interim Scheme, the SHC considered that more empirical information is required to review the full and exact impact of the Interim Scheme on property prices to enable it to decide on the future of the scheme.

Given the strong demand for subsidized sale flats nowadays (especially from persons eligible for WF status), the SHC considered it more prudent to release one more round of the Interim Scheme with 2 500 quota in the second half of next year. This can respond to WF applicants' home ownership aspirations on the one hand, and reduce the quota to a relatively conservative number on the

other. A comprehensive review will be conducted thereafter to decide on the future of the Interim Scheme. Upon completion of the review, the Government will report the outcome to the Legislative Council Panel on Housing.

Deputy President, housing stands out as one of the most challenging social issues which Hong Kong is facing. The society as a whole, including the younger generation, faces a serious supply-demand imbalance in housing. The ultimate solution to address the supply-demand imbalance must lie in increasing supply continuously and with sufficient scale. The Government announced the new Long Term Housing Strategy yesterday. It is the first long term strategic document on housing since 1998. Learning from past experience, we have made a major policy shift by adopting a supply-led strategy, with a view to rebuilding the housing ladder and maintaining a stable private housing market. Through providing newly built subsidized sale flats and facilitating the circulation of the existing stock, we hope to help the lower- to middle-income households, including young people and first-time home buyers, meet their home ownership aspirations.

According to the latest overall housing demand projection, the total housing supply target for the next 10 years (that is, from 2015-2016 to 2024-2025) is now set at 480 000 units, of which 90 000 will be subsidized sale flats. Newly built HOS flats will be put on sale in phases, with the pre-sale of the first batch of 2 160 flats in end of this year and pre-sale of the second batch expected to be in mid-2016 (number of flats to be confirmed). The Government will also consider ways to expand the forms of subsidized home ownership and to leverage on the private sector's capacity in providing some of the subsidized sale flats.

MR JAMES TIEN (in Cantonese): *Deputy President, regarding the concept of subsidized sale flats, actually no matter where the Government draws the line of eligibility, there are always people who think that successful applicants in the ballot drawing are just as lucky as people who win the Mark Six Lottery. For example, the Government stated in the last paragraph of the main reply that the total housing supply target for the next 10 years was set at 480 000 units, of which 90 000 would be subsidized sale flats, but only 2 160 flats would be sold in the first batch this year.*

May I ask the Government, as far as the Long Term Housing Strategy is concerned, the applicants will get the subsidy and then purchase the home with a lower cost only if they are lucky enough to have their numbers drawn in the ballot drawing. Nevertheless, the biggest problem is that these people actually want to make a profit. When they resell the flats in the future, the payment of land premium would be involved. Do they need to pay the land premium of the original property price or the future property price? This question will have significant impact on these people. Has the Government conducted any assessment in this respect and how will this issue be handled? Actually, the range of property price, the land premium in particular, will be subjected to enormous fluctuation in a 10-year span.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, what Mr TIEN said was correct. With regards to our subsidized sale flats project, the flats involved are mainly HOS flats. Eligible applicants who have purchased a flat, will enjoy the benefit of a discount as the price is below market price. Of course, HA will consider the discount rate for the sale of each phase of HOS flats, and it will also take into account of the affordability of the target applicants we intend to help. If the flats are sold at a discount of 30% (that is, flats are sold at 70% of the market price), and assuming that this HOS flat owner wishes to sell his flat in the open market in future, then before he sells his flats, he has to pay the land premium first. While the rate of the premium not yet paid would depend on the housing market price at that time, depending on the discount he was offered in the original sale and purchase of the HOS flat, the unpaid land premium rate will be set accordingly.

MR TONY TSE (in Cantonese): *Deputy President, the Interim Scheme is a provisional one. The Secretary once expressed that the scheme will be reviewed in due course to decide its future. With regards to part (1) of the main question, Member asked for the respective numbers of persons aged 35 or below among applicants who had purchased second-hand HOS flats. Just now the Secretary mentioned in the main reply that they had not kept breakdown of prospective buyers or buyers by their ages. May I ask where the information for future review can be found if the Government does not keep information of such simple nature? As to the new batch of HOS flats to be put on sale next year, will it collate more information in various areas? Otherwise, how can the Secretary conduct the review as well as to decide the future of the scheme?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, as I have explained in the main reply, we have not kept breakdown of buyers by their ages. As we have not taken the age factor into consideration as far as the entire Interim Scheme is concerned, we do not keep breakdown of such category. Nevertheless, if we need to find out such information, we may go over each and every application out of the total 2 161 completed ones (as at September) one by one. We can do this. That is why I said we could not provide the information at this moment, but we can provide the information later on. Mr TSE is right in saying that when HA reviews the result in future, the age breakdown, that is, which age group can be benefited under the Interim Scheme, may be very useful reference materials.

MR LEUNG CHE-CHEUNG (in Cantonese): *Deputy President, the Interim Scheme is indeed very popular as tens of thousands of applications are received. I want to follow up on part (3) of the main question. Earlier there has been rumour that in addition to second-hand HOS flats, the authorities would sell the entire block of some newly built public housing flats to PRH residents (GF applicants). If it is true, may I ask whether HA will increase the ratio of WF applicants under the new HOS scheme accordingly after providing more home-ownership choices and opportunities for GF applicants?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, regarding long-term housing supply, just as I mentioned when announcing the Long Term Housing Strategy yesterday, the Government estimates that among the total housing supply target of 480 000 units in the coming decade, the public-private split would be maintained at a ratio of 6:4. Of the 290 000 public housing units, our projection is that there will be 200 000 PRH units and 90 000 subsidized sale flats. We will not change this ratio. Of course, I also mentioned yesterday that we would consider to expand the forms of subsidized home ownership. As to the actual idea we would have eventually, we still need further exploration. Over a period of time in the past, we have actually listened to views of different organizations, including political parties, Legislative Council Members and other individuals. We will seriously take them into consideration.

As to the ratio between GF and WF for each phase, HA has not set a fix ratio all along. It all depends on the sale situation of each phase. Although the ratio between GF and WF in the past has been maintained mostly at a ratio of 6:4, there were also occasions that the flats were equally divided by the two, thus it would only be decided when the initial quota was set. For example, if 60% has been set for GF applicants, but it turns out that it is more than enough, then the remaining quota will be allocated to WF applicants. According to our observation, by the time these units are sold, the ratio is almost fifty-fifty.

MISS ALICE MAK (in Cantonese): *Deputy President, the Secretary mentioned in the last part of the reply that the Government would consider ways to expand the forms of subsidized home ownership. In fact, there is a group of people in society whose income is just above the income limit for applying PRH flats but they cannot afford to buy homes in the private property market. They have no alternative but to rent private flats. After paying a hefty sum of rents, they have nothing left thus they can never have enough savings to buy homes in the private market. In the course of finding ways to expand the forms of subsidized home ownership, will the Government consider the recommendation proposed by the Hong Kong Federation of Trade Unions (FTU) some time ago, that is, to sell HOS flats at cost price, so as to assist these people to start the first step of buying homes for themselves?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, it has been over 30 years since the HOS scheme was launched in late 1970s. At the very beginning, they were sold at cost price, but very soon the practice was changed, whereby flats were sold at the market price at that time with a discount. The discount rate depended on the presumed affordability of the people whom the Government wanted to help at the time. Generally speaking, HA has adopted more or less the same principle up to the present. As to affordability, it is based on two considerations. The first is the housing expenses of the people. For HOS flats applicants who have succeeded in HOS ballot drawing, their expenses in making mortgage repayments, the interest rate at that time, as well as the down payment and the loans they need will be taken into account. The other consideration includes non-housing expenses and contingencies, and so on. All these formulae have been proved effective over a long period of time.

Moreover, the discount for each phase is not fixed. While we find historically that a 30% discount has been fine, it is not a fixed figure. For that reason, I believe HA will adhere to this principle for HOS flats to be constructed in future.

As to my words in the main reply that the Government would consider ways to expand the forms of subsidized home ownership, of course it depends on the ways and new concepts we have come up with eventually to help people in need to fulfil their quest for home ownership. I know that FTU has put forward some views before, and other members of the public have also put forward their views. The Government will adopt an open attitude to consider different views seriously.

MR CHAN KAM-LAM (in Cantonese): *Deputy President, the Interim Scheme is good as it allows eligible WF applicants to buy homes which suit their needs in the secondary market. However, as there are HOS flats in the secondary market with or without premium paid, therefore, in relative terms, we can see a substantial increase in the prices of HOS flats for some time in the past. Although Interim Scheme applicants can purchase HOS flats without premium paid, the prices are still too high. May I ask if the Secretary will consider the following: Since HOS flats, or even PRH flats under the TPS are subsidized housing for these applicants, if they are put on the open market as a means of investment, it will virtually boost property prices, making these homes unaffordable to the people in need of subsidy. As such, will you consider confining the HOS flats or PRH flats put up for sale again to be sold to eligible applicants only?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, under the existing policy of the HA, which is the end product of continuous discussions and reviews over the years, HOS flat owners have two ways to sell their flats. The first is to put them up for sale in the open market. If they opt this, they have to pay up the unpaid land premium first. The second is to keep the land premium unpaid and put them up for sale in the secondary market. There are indeed limits for eligible purchasers in the secondary market. At present, as the Interim Scheme is launched, other than traditional GF applicants, some WF applicants having been verified by HA may also participate

in the purchase. For that reason, there are two ways for the resale of HOS flats. As far as the total number is concerned, there is a considerable supply in the secondary market.

Just now I have mentioned in the main reply that there is a total of about 380 000 flats with premium not yet paid, including flats with premium not yet paid under the HOS, the TPS, and the Flat-for-Sale Scheme of the HKHS, this is a very solid source of supply. Moreover, there are new HOS flats to be sold in future. Therefore, the supply in the secondary market is rather abundant.

We have listened to different views in the past and we were asked if it was viable to put a ban on the sale of HOS flats in the open market. There were indeed views like that. Nevertheless, there were also views that we should not put any restriction on the sale, as people considered that once the flats were sold, owners should be allowed to put their flats up for sale in the open market as far as possible. At present, HA or the Government is considering ways to further vitalize the secondary HOS market with a view to enhancing their turnover, so that they can meet the actual needs of members of the public with different social background and affordability.

MR SIN CHUNG-KAI (in Cantonese): *Deputy President, in part (3) of the main question, Member asked the Government for ways to assist members of the public aged 35 or below who aspire, and have the ability, to purchase second-hand HOS flats in buying their own homes. After listening to the Secretary's reply, I find that the Secretary has not answered that part. My supplementary question is: When the authorities sell traditional HOS flats in future, will specific measures be put in place to assist members of the public aged 35 or below who aspire, and have the ability, to purchase flats under the Interim Scheme or traditional HOS?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, we understand that the younger generation, I presume that people aged 35 are young ones, and many of them are anxious about the housing issue. They sometimes face problems in purchasing homes or even renting flats. However, from the Government's point of view, the housing problem is not a problem faced by the younger generation alone. It is a problem that the entire society is facing. Therefore we have stated clearly in the new Long Term Housing Strategy announced yesterday that it is a serious problem as well as a significant challenge

to be addressed. It is necessary for us to get prepared at each stage, including identifying adequate lands, optimizing planning and relevant procedures, and shortening the construction process as far as practicable. I hope that we will join hands to do our best to solve this imminent problem. However, this problem affects more than people in a certain age group.

Speaking about any measure concerning subsidized sale flats, including HOS flats, if we are to provide preferential treatment to a certain age group, people in other age groups would consider that unfair. Therefore we should strike the right balance and take every aspect into consideration. On the one hand, people in different social strata will have different needs; on the other hand, it is hoped that the limited public housing resources can be allocated in the most efficient and relatively fairer manner.

DEPUTY PRESIDENT (in Cantonese): Second question.

Defacement of Public Places and Vandalism of Government Properties in Occupied Areas

2. **MR CHAN HAK-KAN** (in Cantonese): *Deputy President, although the illegal occupation movement which had lasted for more than two months had come to an end, it can be seen from media reports that apart from putting up a lot of publicity materials and generating large quantities of garbage in the occupied areas, the occupiers had drawn graffiti everywhere and used without permission large quantities of government properties, including mills barriers, water barriers and traffic cones, and so on. Some of them even damaged lamp posts and safety islands, damaged road surface and planter blocks, dismantled the central dividers on roads and vandalized police cars. In this connection, will the Government inform this Council:*

- (1) *whether it has assessed the public expenditure involved in and the number of working hours spent by civil servants on cleaning up the occupied areas and repairing the facilities concerned since the occurrence of the occupation movement, as well as the manpower and expenditure needed for completely restoring the occupied areas to their original form; if it has assessed, of the details;*

- (2) *whether it has compiled statistics on the quantity of government properties that were used without permission or vandalized, and on the costs of purchase and the reprovisioning costs of such properties; if it has, of the details; whether it will recover such losses from the people or groups concerned; if it will, of the details; if it has not compiled such statistics, the reasons for that; and*
- (3) *of the criminal liabilities to be borne by the people who have used government properties without permission or vandalized them; whether it will commence criminal investigations into the use without permission and vandalism of government properties by the occupiers and make arrests accordingly?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, following the bailiffs' execution of the court injunction orders in end-November and last week and the Police's clearance of road obstructions, the Occupy Central or the Occupy movement, lasting for more than two months, came to a close. Our society has paid a heavy price for the whole movement. There are calls in the community for a clear estimation of the loss suffered by Hong Kong and the price that the public have to pay for the entire Occupy Central. In this respect, I would like to thank Mr CHAN Hak-kan for his question. Although focusing on the extent of loss of government property and the reinstatement expenditure, Mr CHAN's question has ushered us to a reflection of a deeper level, that is, apart from tangible and quantifiable loss such as money, manpower and resources, the severity of the Occupy Central's impact on Hong Kong in other respects, including the rule of law, economic activities, society in the state of being torn apart and public distress, and furthermore, the means of future restoration. In this connection, I maintain that all involved parties, particularly the Occupy Central instigators and propagators, should ponder hard and account for it.

Mr CHAN's question involves policy areas of different bureaux and departments, including the Transport and Housing Bureau, Development Bureau, Food and Health Bureau, Highways Department, Food and Environmental Hygiene Department, Civil Engineering and Development Department and Hong Kong Police Force. In consultation with relevant bureaux and departments, the Administration provides a consolidated reply as follows:

During the Occupy Central, protesters made road obstructions by misappropriating and taking away a huge quantity of public property, including mills barriers, water barriers, pavement railings, litter bins, recycling bins, traffic cones, road signs, and so on, in the illegally occupied areas and their vicinity. Drainage covers at both sides of carriageways and pavement tiles were removed without permission while central dividers on roads were dismantled. Apart from making graffiti on places such as road surface, road dividers and footbridges, some protesters erected wooden staircases or railings on road dividers. They also trod on grass and turned over the soil in roadside planters for planting. Some occupiers even damaged traffic lights and dismantled the covers of illuminated bollards and lamp posts, which was an act of suspected abstracting of electricity, and rendered escalators to malfunction by spreading cement on the steps of the escalators. During the entire Occupy Central, 32 police cars were vandalized so far. In addition to government property, the glass doors and walls of the Legislative Council Complex were severely smashed and there were misappropriations of or damages to the property of public and private companies, such as bus/minibus stops and railings of bus/minibus companies, luggage trolleys at the Airport Express, trolleys of supermarkets, and tools and materials at construction sites, including fire extinguishers, precast concrete units, hoardings, aggregates, bricks and bamboo poles.

Given that the occupied road surface and public areas as well as locations at which protest materials were placed or posted fall within the purview of a number of government departments, the Administration has removed the obstructions on the roads and their surrounding areas, washed the streets, and inspected public facilities within the illegally occupied areas, and so on, through the concerted efforts of relevant departments. Since the roads in illegally occupied areas that covered a larger space, that is, those in Admiralty, Central and Causeway Bay were not reopened until very recently, the Administration is, at this point of time, in no position to assess the additional public expenditure and manpower for clearing up the illegally occupied areas and their vicinity as well as restoring and repairing the public facilities in such areas. Nor has it comprehensively assessed the exact degree of damage in those illegally occupied areas and their vicinity. Nevertheless, I can tell you that about 100 truck trips were consumed just for the delivering of cleared rubbish and miscellaneous items upon the re-opening of roads in Central and Admiralty. As the misappropriated or damaged government property items were under different departments, it will take certain resources, time and concerted effort among departments before such districts can be fully reinstated.

Deputy President, the authorities concerned will certainly retrieve the government property misappropriated by the occupiers where necessary and pursue such illegal acts in accordance with the law. Taking government property without permission may constitute theft. Under section 9 of the Theft Ordinance (Cap. 210), any person who commits theft shall be guilty of an offence and shall be liable on conviction to imprisonment for 10 years. Moreover, damaging government property involves criminal damage and by the same token, a person shall be liable on conviction to imprisonment for 10 years under section 63 of the Crimes Ordinance (Cap. 200 of the Laws of Hong Kong).

Furthermore, in accordance with the provision of section 4(19) of the Summary Offences Ordinance (Cap. 228 of the Laws of Hong Kong) on nuisances committed in public places, any person who without lawful authority or excuse in or near any public place defaces any rock or any roadcutting by carving or otherwise marking thereon any letter, character, figure or device shall be liable to a fine of \$500 or to imprisonment for three months. In addition, under section 8(b) of the above Ordinance on other offences against good order, any person who without the consent of the owner or occupier writes upon, soils, defaces or marks any building, wall, fence or paling with chalk or paint or in any other way whatsoever; or wilfully breaks, destroys or damages any part of any building, wall, fence or paling, or any fixture or appendage thereof shall be liable to a fine of \$500 or to imprisonment for three months.

Deputy President, as I have just pointed out, the Occupy Central has entailed great loss to Hong Kong, both tangible and intangible, calling for a serious deliberation on whether similar confrontational and illegal acts should be allowed to go on at the expense of Hong Kong's future. As Secretary for Security, I have to reiterate that the Administration has the responsibility to maintain public order and public safety at all times. Any illegal acts shall definitely be pursued according to the law as long as there is sufficient evidence. Just like the public at large, I hope that the Occupy Central will not recur, and that all Hong Kong citizens will, in one spirit and by seeking common ground and accommodating differences, join hands to build a better Hong Kong.

MR CHAN HAK-KAN (in Cantonese): *Deputy President, in my main question, I enquired about the persons to be pursued regarding the damage done to government properties, but the Secretary seemed to have left out this part in his*

main reply. Of course I understand that the situation was chaotic during the occupation period, rendering it impossible to make immediate arrest of some alleged suspects. However, I also noticed that an elder brother of one of our colleagues in this Council has also claimed \$300 in taxi fare from the Occupy Central Trio.

I would like to ask the Secretary: With regard to the damage which he has listed, including damage to police cars, fees for delivering rubbish and clearing of road blocks, together with the missing water barriers, would claims be made against the Occupy Central Trio?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, Mr CHAN enquired about criminal liabilities in the main question, but I believe this supplementary question is focused on civil claims. In general, if the Government has sufficient evidence to prove that government facilities or properties have been misappropriated or damaged and losses have been resulted, the Government can make claims against the persons concerned by way of civil avenues, for example, through civil proceedings.

The example cited by Mr CHAN just now was a case in which an individual made a claim by initiating individual proceedings against a person whom he considered to have caused him losses. Of course, under the laws of Hong Kong, everyone in Hong Kong has the right to do so.

On the part of the Government, we have established procedures. Earlier, I have pointed out that certain government properties possessed by various departments might have sustained certain degrees of losses. The departments concerned will examine if there is sufficient evidence. Where necessary, the Department of Justice will be consulted when actions to recover losses are considered.

MR GARY FAN (in Cantonese): *Mr CHAN has not mentioned "Occupy Central" in his main question. Why did the Secretary use the words "Occupy Central" in his main reply to sum up the occupation of roads as put down by Mr CHAN? Moreover, he has also bragged about "reflection of a deeper level", "loss ... both tangible and intangible", and "build a better Hong Kong".*

Deputy President, my supplementary question is about having double standards in law enforcement. At present, a large number of parallel goods traders are occupying Sheung Shui and Fan Ling in the Northern District every day. Just as Mr CHAN Hak-kan said in the main question, they are occupying roads, generating large quantities of garbage and obstructing pedestrians. This is also a kind of occupation. Why do the authorities only let parallel goods traders occupy Sheung Shui and Fan Ling, and not allow the Hong Kong public to occupy Admiralty, Causeway Bay and Mong Kok to fight for universal suffrage? Have the authorities done anything specific to stop the parallel goods traders from obstructing means of transport and pedestrians, and generating large quantities of garbage? Why will the Police take immediate action when it is political repression but fail to fulfil their due duty when it comes to law enforcement, like what the Secretary said to "build a better Hong Kong"?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I believe Mr FAN is making an issue of the subject. If I have not wrongly interpreted Mr CHAN's main question, my reply was completely in response to Mr CHAN's question. Earlier, Mr CHAN ...

(Mr Gary FAN stood up)

DEPUTY PRESIDENT (in Cantonese): Mr Gary FAN, please sit down. Secretary, please continue with your reply.

SECRETARY FOR SECURITY (in Cantonese): I believe Mr CHAN's supplementary question raised earlier had fully reflected what he had in his mind. I have just briefly mentioned the losses caused by Occupy Central on the Hong Kong society. As regards the behaviour of parallel goods traders mentioned by Mr FAN, I believe there is no room for a comparison. We are aware that the problems caused by parallel goods traders have annoyed residents of the Northern District of the New Territories for some time. The Government and various departments have taken a series of actions to crack down on their illegal activities. We are not taking law-enforcement actions on these illegal activities in the wake of the Occupy Central incident. We have been doing that for a

period of time. We will continue to take appropriate measures to address this problem. I wish Mr FAN will not mix the two together to confuse the public.

MR ALBERT HO (in Cantonese): *Deputy President, the focus of the main question and the main reply is on the superficial damage done to public order by the Occupy movement, some ensuing losses, and society in the state of being torn apart as the Secretary described. These are all adverse effects. Actually, regarding this Occupy movement which lasted 75 days, has the Secretary, or other colleagues of his, made a more holistic assessment? First, during these 75 days, we ...*

DEPUTY PRESIDENT (in Cantonese): Mr HO, this main question is clearly about the impact and damage caused by the Occupy movement, but what you are saying now has gone beyond this scope.

MR ALBERT HO (in Cantonese): *Deputy President, I intend to ask the Secretary if he has made the assessment from other perspectives, or if he has only concentrated on the damage done. I believe this is within the scope of the main question.*

DEPUTY PRESIDENT (in Cantonese): Your question has exceeded the scope of the main question, but I will ask the Secretary to reply.

MR ALBERT HO (in Cantonese): *Deputy President, I would like to finish asking my supplementary question briefly. First, has this movement brought fresh ideas of town planning to the authorities? For instance, within the occupied area, air had become fresh as traffic was light. Will this generate new town planning concepts? The second point pertains to the creative culture of the Occupy movement. Young people can voice out ...*

DEPUTY PRESIDENT (in Cantonese): Your question has gone beyond the scope of this main question. Furthermore, the Secretary is not in a position to reply.

MR ALBERT HO (in Cantonese): *Deputy President, please let me speak a little more.*

DEPUTY PRESIDENT (in Cantonese): Please sit down.

MR ALBERT HO (in Cantonese): *Regarding criminal liabilities which he mentioned, has he considered that behind the tearing apart of society, deep-rooted conflicts, such as civil disobedience, cannot be addressed by criminal prosecution? The situation is not like what he said.*

SECRETARY FOR SECURITY (in Cantonese): The entire Occupy movement has taken a toll in various aspects. I believe that apart from the Government, the Hong Kong people, the initiators of the movement and the participants should all ponder seriously. We are all living in this Hong Kong society. What we want to see most is people in harmony seeking common ground. Earlier, Mr HO even asked about town planning. Just as the Deputy President said, this is not my policy area. However, generally speaking, after experiencing this unprecedented movement, I think it will be good for the future of Hong Kong if every Hong Kong citizen can sit back and think.

MR STEVEN HO (in Cantonese): *The Occupy Central which lasted for more than two months has caught Hong Kong in dire frustration. Hong Kong people are aware that the initiators of the movement are the Trio, and they are succeeded by the Hong Kong Federation of Students and Scholarism. The most unfortunate consequence is that the rule of law has shattered. If their surrender cannot subject them to justice, our rule of law will shatter even more. Therefore, I would like to ask the Government: Has it gathered any evidence over the last two months or so to prove that the Trio and the Hong Kong Federation of Students and Scholarism have to bear legal responsibility? I understand that within the occupied area ...*

DEPUTY PRESIDENT (in Cantonese): Mr HO, your question has also exceeded the scope of this main question.

MR STEVEN HO (in Cantonese): *Deputy President, I will now come to the damage resulted from the movement. I understand that the damage done within the occupied area may not have been directly caused by the Trio and the Hong Kong Federation of Students and Scholarism, but I wish to ask the Secretary: What can the Government do to manifest the rule of law?*

SECRETARY FOR SECURITY (in Cantonese): The Police pay much attention to all illegal acts made in the entire Occupy movement. Earlier, the Commissioner of Police held a press conference in which he expressed very clearly that illegal acts during the period of the movement would be strictly handled and responsibilities would be pursued. So long as there is sufficient evidence, the Department of Justice (DoJ) will be consulted on whether prosecutions should be made.

The Member has named some organizations or individuals in particular. I want to say that with regard to illegal acts, the department responsible for law enforcement is duty-bound to conduct investigation. It will consult the DoJ whether prosecution should be instituted based on the evidence. This is the established policy, and to the Hong Kong public, this also shows that it is responsible. We will definitely handle this case in accordance with the law.

MR LEE CHEUK-YAN (in Cantonese): *Deputy President, the Secretary seems to have come from the outer space. He cannot even distinguish between Central and Admiralty. He repeatedly mentioned Occupy Central, but had Central been occupied? Like what Mr Gary FAN said, Sheung Shui has also been occupied. Why does he not talk about Sheung Shui? He kept on saying Central, which in fact is not the issue. Without the basic knowledge of geography, how can the Secretary reply?*

The most heart-wrenching part is that the Secretary's main reply gives us the impression that unlike what he said, the Government has actually not reflected. It does not want "all Hong Kong citizens ... in one spirit and by seeking common ground and accommodating differences, join hands to build a better Hong Kong". I have this question for the Secretary: What have the authorities reflected on? Do they have to pursue those who are said to have caused damage in accordance with the law, instead of pursuing the genuine initiator? The genuine initiator is the Government of LEUNG Chun-ying. It

compiled the report for submission to the National Peoples' Congress (NPC), prompting the NPC to make the decision to "shut the door", denying Hong Kong of genuine universal suffrage. I would like the Secretary to answer if the authorities will reflect on who the genuine initiator is.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I do not intend to debate publicly with the Member over the term Occupy Central as it has become deeply rooted in people's mind. We are all very clear which parts have been occupied. There is no need for us to argue here whether it is Occupy Central or Occupy Admiralty. That is entirely meaningless. In fact, the people of Hong Kong are all clear what price the entire society has paid.

As regards the supplementary question just raised by the Member, it has nothing to do with today's main question whatsoever. The SAR Government will push forward the political reform strictly in accordance with the Basic Law and the relevant decisions of the Standing Committee of the NPC. I do not believe that any act in strict compliance with the constitution is illegal.

DEPUTY PRESIDENT (in Cantonese): Third question.

Additional Demand for Railway Services

3. **MR TONY TSE** (in Cantonese): *Deputy President, the MTR Corporation Limited (MTRCL) announced last month that the West Island Line (WIL), which is an extension of the MTR Island Line to Kennedy Town, would be partially commissioned at the end of this month, and that the Sai Ying Pun Station of WIL was expected to be ready for use in the first quarter of next year. Some members of the public have expressed the concern that as the train compartments are already very crowded at present, the commissioning of WIL may worsen the situation. In this connection, will the Government inform this Council:*

- (1) *whether it knows, during the period from the beginning of the road occupation on 28 September this year to the 15th of this month, the daily average patronage, the respective daily average patronages during the morning and the afternoon peak hours in respect of each railway line (except for the Disneyland Resort Line, and the same*

exception applies below), as well as the daily average passenger flow at each interchange station; how such figures compare with those for the period from 1 to 27 September this year; whether the MTRCL has formulated any measure to alleviate the pressure on its passenger services in the event of occurrences of similar road occupation incidents in future;

- (2) *whether it knows if the MTRCL has assessed the impacts of the commissioning of WIL on the patronage of the various railway lines and the passenger flow at various interchange stations before the end of the road occupation; if the MTRCL has assessed, of the outcome and what corresponding measures it has put in place; if the MTRCL has not assessed, the reasons for that, and how the MTRCL ensures that its passenger services, railway station facilities and manpower resources, and so on, are adequate to cope with the increase in patronage; and*
- (3) *given that the road occupation in Admiralty is one of the causes for the delay in the Admiralty Station extension works, whether it knows if the MTRCL has assessed how the passenger flow at the Admiralty Station upon the commissioning of WIL at the end of this month will compare with the current figure and with the original estimate for the initial operation stage of WIL respectively; if the MTRCL has assessed, of the outcome and the measures to alleviate the crowdedness at the Admiralty Station (especially at the train platforms) before the completion of the extension works for the Station; whether the MTRCL has assessed the impacts of offering fare concessions to passengers travelling from the Sheung Wan Station or WIL's HKU Station on the railway patronage and passenger flow (particularly at the Admiralty Station); if the MTRCL has not assessed, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, my consolidated reply to the various parts of Mr Tony TSE's question is as follows:

The Occupy Central movement ended on 15 December this year. During the movement, some roads were occupied and road-based public transport

services were affected. MTR heavy rail services recorded an increase in number of passengers during the period. The weekday patronage of MTR heavy rail network from 1 September to 15 December this year is detailed at the Annex. The average weekday daily patronage of heavy rail during the first four weeks, the peak period since the beginning of the Occupy Central movement (that is, from 28 September to 25 October), was about 5.34 million. This was 10% higher than that from 1 to 27 September (that is, before the Occupy Central movement) of about 4.85 million. But, the average weekday daily patronage of heavy rail during the subsequent seven weeks (that is, from 26 October to 15 December) dropped to about 5.11 million, though still about 5% higher than that before the Occupy Central movement.

As there is no gate admission record of passengers using interchange stations (such as interchange to Tsuen Wan Line (TWL) or Kwun Tong Line at Mong Kok Station), the MTRCL advises that it is unable to provide the passenger flow statistics of interchange stations.

Without compromising railway safety and apart from continuing to run at two minutes headway during morning peak hours (normally from 7.15 am to about 9.15 am), the MTRCL also enhanced train services at other hours as necessary during the Occupy Central movement.

Regarding staff deployment, on top of the 2 800 front-line operations staff rostered on duty each day, the MTRCL has deployed about 400 additional staff (including temporary staff and staff from other departments) to strengthen passenger service and handle disruptions due to unforeseen circumstances. Most of them were at stations with higher volume of passenger flow to assist passengers and maintain station order. Having regard to the actual situation, the MTRCL also implemented further passenger flow management measures including maintaining single direction passenger flow at station exits and concourses, limiting number of passengers waiting at platforms, and diverting passengers to less crowded areas of platforms and concourses to ensure smooth train operation and passenger safety.

Further, the MTRCL's Infrastructure Maintenance Rapid Response Unit and Rolling Stock Rapid Response Unit have deployed additional manpower to station at different positions of the railway network strategically. They could be the first on the scene of any equipment failure to start recovery work with a view to minimizing impact of any disruption.

Deputy President, according to the assessment carried out by the Transport Department (TD) and the MTRCL on the impact of the WIL to be commissioned at the end of this month, the new patronage brought by the WIL during the morning peak hours will be generated mainly by commuters going northward from Island West to Kowloon or the New Territories areas via the TWL and those heading eastward for Island East via the Island Line (ISL). Currently, passenger movements of the TWL and ISL are mainly southward and westward respectively toward Central in the morning peak hours. Hence, these two major passenger flows go just in the opposite directions. In the evening peak hours, commuters of the WIL also move in just the other direction of the major passenger flows of the TWL and ISL. Despite there being an increase brought by the commissioning of the WIL to the overall passenger trips along the ISL, it is believed that the impact on the passenger flows should not be significant.

WIL passengers can interchange at Central Station for journeys to and from Kowloon via the TWL. This interchange arrangement is no different from the existing one for switching to the TWL at Central Station from Sheung Wan Station or the other way round. As such, the MTRCL expects that the commissioning of the WIL (including concessionary arrangements for passengers) will not significantly affect the interchange passenger flow at the platforms of Admiralty Station. That said, the MTRCL will continue to enhance platform management at Admiralty Station to maintain smooth circulation of passengers, with a view to alleviating crowdedness during peak hours at the station.

To tie in with the commissioning of the WIL, the MTRCL has deployed operating staff to work at the new stations since September this year to undergo relevant training and prepare the stations for operation. In addition, the MTRCL will deploy mobile service teams which are familiarized with the neighbourhood at critical locations such as concourses, platforms and major walkways of the stations to help passengers with direction and other service information during the initial operation of the WIL.

The expansion works at Admiralty Station are underway to tie in with the South Island Line (East) (SIL(E)) works. We have reported the challenges faced by the SIL(E) works and the reasons for progress delay in the paper submitted to the Subcommittee on Matters Relating to Railways of the Legislative Council in November this year. According to the information provided by the MTRCL, the Occupy Central movement, though not a major reason for delay, has indeed affected the expansion works at Admiralty Station.

Weekday Patronage of MTR Heavy Rail Network from 1 September to 15 December 2014

Heavy rail network	1 September to 27 September 2014 (except eight Saturdays, Sundays and Public Holidays and three special days ⁽¹⁾ during this period)			28 September to 25 October 2014 (Four weeks) (except 10 Saturdays, Sundays and Public Holidays during this period) ⁽²⁾			26 October to 15 December 2014 (Seven weeks) ⁽³⁾ (except 15 Saturdays, Sundays and Public Holidays during this period)		
	Average weekday daily patronage	Number of passenger trips admitted at gates of all stations of a railway line during morning peak ⁽⁴⁾	Number of passenger trips admitted at gates of all stations of a railway line during evening peak ⁽⁴⁾	Average weekday daily patronage	Number of passenger trips admitted at gates of all stations of a railway line during morning peak ⁽⁴⁾	Number of passenger trips admitted at gates of all stations of a railway line during evening peak ⁽⁴⁾	Average weekday daily patronage	Number of passenger trips admitted at gates of all stations of a railway line during morning peak ⁽⁴⁾	Number of passenger trips admitted at gates of all stations of a railway line during evening peak ⁽⁴⁾
Island Line	947 100	70 100	150 100	1 226 200	91 500	168 200	1 103 600	81 900	163 400
Tsuen Wan Line	1 058 300	100 500	123 200	1 172 200	110 100	133 300	1 115 500	105 700	127 000
Kwun Tong Line	604 600	74 600	67 900	633 600	78 400	70 000	615 300	76 200	68 200
Tseung Kwan O Line	333 300	54 700	20 900	337 000	54 400	21 500	333 700	54 900	21 200
West Rail Line	432 000	56 100	47 800	453 200	58 400	51 800	448 500	58 000	50 000
East Rail Line	1 044 800	92 800	106 100	1 062 700	94 000	108 200	1 054 800	93 900	105 300
Ma On Shan Line	150 600	19 500	11 200	155 600	19 600	11 800	153 000	19 700	11 600
Tung Chung Line	236 900	30 300	28 000	253 800	31 800	30 300	245 900	30 800	28 800
Airport Express	44 000	2 900	3 600	46 500	2 900	3 600	42 000	2 900	3 300
Total	4 851 600	501 500	558 800	5 340 800	541 100	598 700	5 112 300	524 000	578 800

Notes:

- (1) The three special days include 8 September 2014 (overnight service for Mid-Autumn Festival) and 15 to 16 September 2014 (the Observatory issued No. 8 Tropical Cyclone Warning Signal).
- (2) Weekday patronage of MTR heavy rail network from 28 September to 25 October 2014 was reported at the Legislative Council meeting of 29 October (written question No. 15).
- (3) Patronage figures from 8 to 15 December 2014 are provisional figures only.
- (4) Calculated based on the busiest one hour during the respective periods. Depending on the travelling pattern of passengers of individual railway line, the morning peak is from about 8 am to 9 am and the evening peak is from about 6 pm to 7 pm.

MR TONY TSE (in Cantonese): *Deputy President, we are very concerned about the problem of crowdedness in train compartments of heavy rail services during peak hours. In this connection, the Government has followed good advice and confirmed earlier that the design capacity of train compartments in future would be pitched at the service benchmark of accommodating up to four persons (standing) per square metre (ppsm) instead of a passenger density of six ppsm.*

I would like to ask the Secretary whether the target service benchmark of four ppsm or six ppam would be used for the design capacity of train compartments of the WIL; whether the passenger density level of four ppsm or six ppam would be used to assess the crowdedness of train compartments in the future; whether such a difference in the design capacity permitted previously and currently for railway operation would lead to confusion at interchange stations in the future; and whether the Administration has noted the problem and taken corresponding measures.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, the target service benchmark of four ppsm as mentioned by Mr TSE is the service benchmark applicable to all existing railway lines in the MTRCL network. For railway lines constructed in early years (including the ISL), the service benchmark of six ppsm had been used but a four ppsm passenger density level is now used to assess if train services have reached its full capacity and what improvement measures can be adopted. Such measures include the planned upgrading works for the relevant signalling systems, the building of new railway lines or the provision of other facilities to accommodate an additional volume of passenger flow.

However, from a safety point of view, rail services are still operating safely even when they run at a six ppsm passenger density. Hence, from the design perspective, consideration has to be given to the extraordinary situation when there is a huge volume of passenger flow. If passengers are prepared to squeeze in the train compartments, it is still safe for rail services to achieve a standard of six ppsm.

MR CHAN KIN-POR (in Cantonese): *Deputy President, as a result of the illegal Occupy action, the patronage of MTR heavy rail network has increased significantly, thus posing a higher risk to rail operations. Most regrettably, it is expected that similar illegal actions will be staged one after another. I would like to know if discussions have been held by the Government with the MTRCL to, with lessons drawn from the incident this time, get well-prepared for any occupy action of an even larger scale and ensure better handling of similar situations in the future?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, it is the position of the Government to avoid as far as possible the recurrence of similar occupy action of such a large scale. From the angle of risk management, however, a contingency plan is indeed required for handling emergencies or any unforeseen circumstances should they arise. An emergency response plan has all along been put in place by the MTRCL to cope with natural disasters and respond promptly to unforeseen incidents as appropriate. In the course of establishing the emergency response plan, thorough discussions have been held by the MTRCL with the relevant government departments.

The MTRCL has handled the situation in accordance with its emergency response plan during the past two months when the Occupy Central movement was underway. Enhancements have also been made to the plan in response to many social discussions before the outbreak of the movement and thus, the MTRCL has performed quite well in implementing various contingency measures. Although the patronage of railway network has increased significantly, thanks to the passengers' understanding as well as the hard work of the MTRCL staff (including the management and the front-line staff), the system has in general maintained its normal operations or has even operated beyond normal capacity to cope with the huge increase in passenger flow. After the Occupy Central movement, a review would also be conducted by the MTRCL to identify areas for improvement so as to better prepare itself for any emergencies in the future.

MR MA FUNG-KWOK (in Cantonese): *Deputy President, to my knowledge, train compartments of the WIL may have a different design from that of the conventional train compartments. I would like to ask whether passenger density*

level of four ppsm or six ppsm would be adopted as the target service benchmark for train compartments of the WIL. With different designs adopted for train compartments of the existing railway lines and the newly commissioned ones, will the crowdedness of train compartments of individual railway lines and in individual interchange stations be aggravated in the future due to the inconsistency in passenger carrying capacity for the same train frequencies? In this connection, has the Government noted the problem and asked the MTRCL to prepare for the challenge accordingly, and how it will monitor the MTRCL in this regard?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, as the WIL is an extension of the ISL, the specifications of trains running on the line are of course compatible with those of the trains running on the ISL in such aspects as train compartments, design of trains, and so on. As for the number of persons (standing) accommodated per square metre, I have stated just now in my reply to Mr TSE's supplementary question that for some railway lines constructed in early years (including the ISL), the service benchmark of six ppsm had been used in the design stage not only because rail services operating at such a passenger density level could, from a safety point of view, still satisfy the safety standards, but also because it was the prevailing target adopted to meet projected passenger demand at the time of their construction in the 1980s. However, it has been observed in recent years that in actual operation, for trains running on both new and existing railway lines, passengers are less willing to board a train when it has achieved a passenger density of four ppsm. Therefore, the MTRCL responded to public concern in this regard last year and used four ppsm as the target service benchmark for its railway lines.

Nevertheless, the adoption of such a target service benchmark does not necessarily mean that the passenger carrying capacity of a train will not exceed the level of four ppsm and it actually depends on the passengers' willingness to board a train, the crowdedness of train compartments and the actual situations. Therefore, when there is a huge volume of passenger flow, especially during peak hours, better management of passenger flow is indeed required at interchange stations. The MTRCL will deploy staff to divert passenger flow at the platforms of the relevant stations during peak hours and remind passengers of the issues they should take note of.

Members may recall that information has been provided to the Subcommittee on Matters Relating to Railways earlier to set out details of carrying capacity and loading of different railway lines during different hours on the busiest sections, and to explain that the loading for critical links will increase to 100% if the passenger density ratio is lowered to four ppsm, a scenario to be taken into very serious consideration when planning for the future railway development and services.

MR YIU SI-WING (in Cantonese): *Deputy President, I would like to ask the Secretary whether an assessment has been made on the impact as well as the gravity of the impact of the illegal Occupy Central movement on the progress of the Admiralty Station expansion works. If the construction works have been delayed, how serious the situation is? Will the Government monitor the impact in this regard and has the truth been withheld?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, as stated in my main reply just now, the expansion works at Admiralty Station are undertaken to tie in with the SIL(E) works. According to the MTRCL, due to delay in construction works, the commissioning date of the SIL(E) has now been postponed to 2016 instead of the original schedule of end 2015.

The expansion works at Admiralty Station involve the addition of three underground levels below Harcourt Garden to the east of the existing station and the construction of a 200 m long overrun tunnel for the Shatin to Central Link (SCL). The works have indeed been affected by the Occupy Central movement since construction materials could not be delivered to the Harcourt Garden site as usual and the excavated materials could not be handled in time. Hence, the construction of the structure of the station could not commence as scheduled.

Besides, the Mines Division of the Civil Engineering and Development Department could not deliver explosives to the work site between 29 September and 22 October, making it impossible to carry out the excavation work for the overrun tunnel of the SCL by blasting. Therefore, the works have actually been affected but as pointed out clearly in our progress update of various railway projects to the Subcommittee on Matters Relating to Railways of the Legislative Council earlier, there are a host of factors affecting the progress of construction

works at Admiralty Station as a whole and the delay is not caused by a single reason.

MR TANG KA-PIU (in Cantonese): *Deputy President, regarding the supplementary question raised by Mr YIU Si-wing, the Secretary has replied that the issue actually involved the delay in quite a number of work items. In this connection, among the many work items that I have heard of, I am gravely concerned about the delay of replacement works for some electrical devices in a substation. As a matter of fact, the ISL is one of the railway lines with the longest history and I do not know for how many years has the substation been in use. However, if it has been in use for over 30 years, I wonder when the replacement works will be completed given the delay. Will the delay result in unstable train services? I am looking forward to a reply from the Secretary because a spate of train incidents did occur in the ISL in the previous week.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, regarding the question raised by Mr TANG concerning a substation, I am afraid that I cannot give a reply at this very moment because the most appropriate way to have a grasp of the situation is to make enquiry about the matter to the MTRCL, the authority in charge of the works. Nevertheless, I am willing to make available the relevant information.

However, the expansion works at Admiralty Station do involve a number of work items and they have to be handled with great care. As Admiralty Station is the interchange station of quite a number of railway lines, consideration has to be given by the MTRCL to the progress of works at the station when an assessment is made on the commissioning date of the SIL(E).

Why it takes so long for the works to complete? On the one hand, it can be attributed to the challenges posed by the complexity of expansion works in various aspects, including the addition of a few levels within the station; on the other hand, efforts have to be made to avoid affecting the normal operation of Admiralty Station, which is an interchange station in use with a very high volume of passenger flow. Thus, it is a very big challenge itself to carry out the works without affecting the normal operation of the station.

DEPUTY PRESIDENT (in Cantonese): Fourth question.

(Mr CHAN Chi-chuen stood up)

MR CHAN CHI-CHUEN (in Cantonese): *Deputy President, I request a headcount under Rule 17(2) of the Rules of Procedure.*

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

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

Attendance of Public Museums

4. **MR YIU SI-WING** (in Cantonese): *Some members of the public have relayed to me that among the public museums which the Government has deployed considerable resources to build and operate, some of them have recorded low attendances. In this connection, will the Government inform this Council:*

- (1) *of the respective attendances of the various museums under the Leisure and Cultural Services Department (LCSD) in each of the past three years;*
- (2) *of the respective incomes and general expenses of the museums mentioned in part (1) in each of the past three years; and*
- (3) *of the museums that have recorded distinctly low attendances or the attendances of which have shown a relatively significant downward trend; whether the authorities have analysed the causes for such situations and explored ways to increase attendance; if they have explored, of the details, including whether they will consider partnering with commercial organizations in operating the museums; if they have not explored, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, thanks Mr YIU Si-wing for the questions.

Public museums are non-profit, permanent institutions in the service of society and its development, open to the public, which acquire, conserve, research, communicate and exhibit the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment. Our reply to the three parts of the question is below:

- (1) The LCSD manages 14 museums, two heritage centres, two visual art centres and one film archive. In the past three years, the total attendance of the museums grew by year from 5.18 million in 2011 to 6.13 million in 2013, representing an increase of 18%. With a new record beat in 2013, it is expected that the attendance will continue to rise in 2014. Details are set out in Annex.
- (2) The expenditure and revenue (excluding sponsorship in cash) of the LCSD museums for the financial years between 2011-2012 and 2013-2014 are tabulated below:

	2011-2012		2012-2013		2013-2014	
	<i>Financial Expenditure</i> (\$ million)	<i>Revenue</i> (\$ million)	<i>Financial Expenditure</i> (\$ million)	<i>Revenue</i> (\$ million)	<i>Financial Expenditure</i> (\$ million)	<i>Revenue</i> (\$ million)
Art Museums ⁽¹⁾	77.43	5.12	88.60	11.19	87.15	5.09
History Museums ⁽²⁾	97.46	4.75	120.68	10.10	114.49	8.05
Heritage Museums ⁽³⁾	97.97	7.59	111.77	8.42	117.17	4.44
Hong Kong Science Museum	70.43	10.48	72.55	11.12	79.96	21.75
Hong Kong Space Museum	52.60	9.97	53.44	11.48	55.30	12.65
Art Promotion Office ⁽⁴⁾	31.04	0.86	38.54	0.93	49.58	0.91
Hong Kong Film Archive	47.87	0.55	52.81	0.59	50.73	0.48
Total	474.8	39.32	538.4	53.83	554.4	53.37

Notes:

- (1) including Hong Kong Museum of Art and Museum of Tea Ware.
- (2) including Hong Kong Museum of History, Hong Kong Museum of Coastal Defence, Dr Sun Yat-sen Museum, Lei Cheng Uk Han Tomb Museum, Law Uk Folk Museum and Fireboat Alexander Grantham Exhibition Gallery.

- (3) including Hong Kong Heritage Museum, Sam Tung Uk Museum, Hong Kong Railway Museum and Sheung Yiu Folk Museum.
 - (4) including Hong Kong Visual Arts Centre and Oi! (opened in May 2013).
- (3) Attendance of museums varies depending on a number of factors including the location, size and nature of the museums as well as the theme and duration of the exhibitions. With the expert advice given by the Museum Expert Advisers and the concerted efforts of the three Museum Advisory Panels and museum staff, programmes and exhibitions held by museums in the past two years were well received and highly popular. In the past three years, mega exhibitions such as "Legends of the Giant Dinosaurs", "Studio Ghibli Layout Designs: Understanding the Secrets of Takahata and Miyazaki Animation", "The Majesty of All Under Heaven: The Eternal Realm of China's First Emperor", "Imperishable Affection: The Art of Feng Zikai — Creating a World of Compassion" and "PICASSO — Masterpieces from Musée National Picasso, Paris" staged by the LCSD were warmly received. In order to achieve a diversified combination of exhibitions, the artistic, historic, scientific and education values as well as audience building would be taken into consideration in the planning stage in addition to audience appeal.

In order to broaden the appeal of small museums at remote locations, the LCSD will organize more extension activities at these museums, including fun days at Fireboat Alexander Grantham Exhibition Gallery and Dr Sun Yat-sen Museum, demonstrations on unicorn dance, Hakka Cha Kwo and patterned bands as well as cultural talks at Law Uk Folk Museum to attract more local and overseas visitors. Separately, to celebrate the 60th anniversary of the discovery of Lei Cheng Uk Han Tomb, the LCSD will stage a major exhibition next year on the Han Dynasty. In order to attract visitors, enormous efforts will be made to highlight the cultural relics of the Han Dynasty and promote Lei Cheng Uk Han Tomb Museum.

On partnership between public museums and commercial organizations, we will identify suitable operators and facilitate them to provide quality service for museum café and bookshops in order to enhance the image of our museums. Meanwhile, the museums will also continue their co-operation with tertiary institutions and

various organizations to further enhance community participation in museums programmes and extension activities.

During recent years, in order to actively cultivate a wider audience base, the LCSD has been striving to bring high quality blockbuster exhibitions to members of the public. The Home Affairs Bureau has signed the agreement on enhancing cultural exchange and co-operation with the State Administration of Cultural Heritage, while the LCSD has also signed the letter of intent on co-operation with the Palace Museum and the National Museum of China. This paves the way to bring more precious relics that portray the rich tapestry of Chinese history and culture to Hong Kong more frequently to attract local visitors. To illustrate, an exhibition on Mogao Caves, Dunhuang titled "Dunhuang — Untold Tales, Untold Riches" is now staging at Hong Kong Heritage Museum and another exhibition on the treasures from the Palace Museum tentatively titled "Western Instrument Collection of Palace Museum" will be held at Hong Kong Science Museum in 2015. Meanwhile, ties with renowned museums overseas are also being actively pursued for bringing exciting blockbuster exhibitions to Hong Kong.

Annex

Attendance of Museums, Heritage Centres, Visual Art Centres and
Film Archive Managed by the LCSD for the Past Three Years

	2011	2012	2013	2014 (as at 30 November)
Hong Kong Museum of History	672 259	1 024 231	864 322	703 684
Hong Kong Museum of Coastal Defence	122 676	119 841	117 444	113 303
Dr Sun Yat-sen Museum	100 304	68 932	59 127	56 663
Law Uk Folk Museum	15 017	12 128	13 021	12 074
Lei Cheng Uk Han Tomb Museum	37 438	39 147	35 660	35 516
Fireboat Alexander Grantham Exhibition Gallery	64 765	63 777	65 594	83 000

	2011	2012	2013	2014 (as at 30 November)
Hong Kong Heritage Museum	785 459	693 299	624 310	811 233
Sheung Yiu Folk Museum	48 651	35 335	42 382	36 278
Hong Kong Railway Museum	211 328	196 740	206 585	202 575
Sam Tung Uk Museum	91 214	98 896	91 268	84 095
Hong Kong Museum of Art	305 507	615 926	535 326	417 072
Flagstaff House Museum of Tea Ware	193 086	197 743	200 995	198 191
Hong Kong Science Museum	1 172 568	1 287 829	1 718 918	1 922 006
Hong Kong Space Museum	714 977	790 509	877 206	799 171
Hong Kong Heritage Discovery Centre	240 198	222 832	193 661	174 164
Ping Shan Tang Clan Gallery cum Heritage Trail Visitors Centre	87 444	79 336	74 557	65 947
Hong Kong Visual Arts Centre	61 528	53 319	59 065	33 955
Oi!	-	-	180 311	202 470
Hong Kong Film Archive	259 219	195 606	179 696	160 832
Total	5 183 638	5 795 426	6 139 448	6 112 229

MR YIU SI-WING (in Cantonese): *Deputy President, according to the information provided by the authorities, the total attendance of the museums has increased. However, as I notice from the statistics provided by the Secretary, 13 out of 19 museums, folk museums and archive show a downward trend in attendance. Among those museums which have shown a downward trend, the attendance of a few of them dropped in three consecutive years, to an extent that it was under 100 000, merely some tens of thousands. For instance, the attendance of the Hong Kong Museum of Coastal Defence was only 117 000 in 2013 after a decline in three consecutive years. The attendance of Dr Sun Yat-sen Museum also dropped for three consecutive years, with an attendance of only 59 000 in 2013. The attendance of the Hong Kong Heritage Discovery Centre also dropped for three consecutive years, with the attendance having dropped from 240 000 to 190 000. The attendance of the Hong Kong Film Archive dropped from 250 000 to 179 000. These museums actually have their respective values for visiting and can arouse interests of the people concerned. I would like to ask the authorities whether they have considered ways to increase*

attendance of the abovementioned museums? Will they take the initiative to invite some partners and think together to identify way to increase attendance of the abovementioned museums or centres?

SECRETARY FOR HOME AFFAIRS (in Cantonese): First of all, the attendances of various museums are shown in the Annex already. When the attendance of a museum is higher in one year than another, this fluctuation may not form a tendency, particularly when we have organized some rather attractive exhibitions and activities in 2011 and 2012 in response to the 15th anniversary of Hong Kong's reunification with China. In regard to the attendance of some museums remotely located, for example the Hong Kong Museum of Coastal Defence and Dr Sun Yat-sen Museum mentioned by Mr YIU, we can increase the attendance by organizing some activities and exhibitions. For instance, an exhibition concerning Nanking Massacre is now being held in the Hong Kong Museum of Coastal Defence. In response to the 75th anniversary of the victory in war next year, we will also organize an exhibition there. We believe that organizing these activities will increase attendance. Concerning the Discovery Centre and the Film Archive, the usage is rather frequent and we can organize various activities there.

MR GARY FAN (in Cantonese): *Deputy President, Mr YIU Si-wing's question is a good subject for discussion. I notice the Secretary mentioned in his reply the extension activities and cultivating a wider audience base, with which I agreed. My supplementary question is how this can be done. During the year, I will visit a number of museums too. The Secretary just mentioned certain exhibitions over the last three years, such as "Legends of the Giant Dinosaurs", Miyazaki Animation and PICASSO exhibition, which I have attended. In regard to extension activities, the LCSD has very nice work occasionally. The "Legends of the Giant Dinosaurs", in particular, provided a family activity to allow public members to stay overnight in the museum. However, overall speaking, I think the LCSD can actually put more efforts or introduce more creative ideas in market promotion.*

Deputy President, in foreign countries, before the exhibitions commence, certain museums will treat their members who have attended over a number of exhibitions within one year with wine and snack. In this way, they will regularly

attend the exhibitions instead of visiting the museums for the sake of accompanying their children. Certain museums will also add some highly innovative ideas in the propaganda. For example, orchestral music will be played in front of the cattle and the milk will be packaged as products to attract ...

DEPUTY PRESIDENT (in Cantonese): Mr FAN, what is your supplementary question?

MR GARY FAN (in Cantonese): *I would like to ask the Secretary whether they can put more efforts in the future regarding extension activities, such as the nice work in promoting "Legends of the Giant Dinosaurs", and cultivating a wider audience base. He mentioned Lei Cheng Uk Han Tomb. I think many Members in this Chamber have not visited the Tomb over the last few decades, apart from their trips to the Tomb during their primary school days. In fact, it really depends on the efforts put into promotion so that the message can spread to more public members while this core service of the LCSD can be better provided.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): I thank Mr FAN for his compliments and suggestions. The LCSD is indeed developing forward. It will, on the one hand, organize more attractive exhibitions, and will also put further efforts in its extension activities. Mr YIU Si-wing may be interested to know that we promote our museums not only locally in Hong Kong, but also in the tourist industry. The activities organized in our museums will be introduced in the airport or at places promoting tourist attractions in Hong Kong.

DR KENNETH CHAN (in Cantonese): *Deputy President, I would like to share an idea with the Secretary and see whether the Secretary can reply here with his opinions, if any. In the past two odd months, you could actually see many pieces of creative artwork in the areas of Admiralty, Causeway Bay and Mong Kok. You might also notice that there were the "Umbrella Man", "Eggs and High Wall" and "multi-family umbrella". At the entrance of the Central Government Offices, there was even a "big yellow umbrella" and many people took pictures there. Over the past two odd months, I am sure that the attendance of these*

places was over 1 million. However, it is a pity that many of these art pieces were taken away by the grab-mounted lorries when the scenes were being cleared. They were then left aside and were finally sent to the landfill. This is rather pitiful indeed. Nonetheless, it is fortunate that a group of young people have taken the initiative to rescue these art pieces. You are a government official and we are both educated. Disregarding our political stances and merely looking from the angle of respecting history, if some day, they ask me to arrange a meeting with you as they want to look for a government museum to keep these art pieces for future exhibition of the art creativity exploded during the Umbrella Movement, will the Government actively respond and consider offering assistance?

SECRETARY FOR HOME AFFAIRS (in Cantonese): There is an established mechanism for the museums under the LCSD in respect of acquisition, conservation, research and even exhibition of various collected items, whether tangible and intangible. We have a team of experts to assess a certain item to see whether it is suitable or worth being collected, or study whether it should be exhibited. This mechanism has been working effectively.

DR KENNETH CHAN (in Cantonese): *The Secretary has not answered my supplementary question. He said that there was a mechanism. But what is the mechanism? When will it assess, and will it assess?*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, I have nothing to add.

MR MA FUNG-KWOK (in Cantonese): *Deputy President, as we all know, museums are multi-functioned. One of the functions is in education. I believe the Secretary is also very clear that our country, for example, introduced a blanket waiver on museum entrance fees two years ago, and the operation cost would be solely shouldered by national cultural resources. I would like to raise*

a point here that according to the main reply of the Secretary, the entrance fees that we receive annually is about \$50 million, which is about 10% of the cost. Can we make use of the museums to support our policy in exercising its educational function, especially in traditional cultural knowledge and historical knowledge? Can we extend the waiver to cover students' entrance fees? It may not be possible to implement a blanket waiver, but free admission for students should be possible. Another target is the teacher. If we want to encourage more teachers to make use of museums, we can consider issuing some kind of visiting passes. With the pass, a teacher can enjoy free entry to museums in order to collect teaching materials or prepare how to guide the students during their visit. Can the authorities consider that? In this aspect, I do not know whether the Government has the relevant figures, for example, the proportion of students among the total number of visitors to the museums. Is it possible for the authorities to consider this policy?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, students who are studying full-time, not part-time, can enjoy free entry to the museums. Members can notice from the figures on expenditure and revenue provided by us that actually, the entrance fees we charge are not for recovering the cost. This is not our consideration because museums are indeed an open platform for education and study. If a school contacts a museum, the students as a visiting group can enjoy free entry. We have such a practice.

(Mr MA Fung-kwok stood up)

MR MA FUNG-KWOK (in Cantonese): *My question is: Can free visiting passes be issued to teachers?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): For teachers as a group, one of our practices is to offer a discount to visitors in groups over 20, and they can purchase tickets as a group. However, for individual teachers, I am afraid that such concessional offer is not available yet.

MR CHUNG KWOK-PAN (in Cantonese): *Deputy President, we have recently discovered a new heritage site of Sung Dynasty at the works site in To Kwa Wan for the Shatin to Central Link. This, of course, has high conservation value. We should also treasure the historical relics of this site with a history of a few hundred years. But the problem is that the area of this heritage site is quite large and the completion time and costs of the Shatin to Central Link will be affected. The sum involved may be as high as a few billion dollars. If we are being practical and put this few billion dollars into various aspects like social welfare and medical care, many people will be benefited. At the same time, there are comments that the Lei Cheng Uk Han Tomb has been conserved for many years but not many visitors go there. If this heritage site of Sung Dynasty is to be conserved, it may also end up like the Lei Cheng Uk Han Tomb in terms of visitor numbers. How can the Secretary strike a balance between speedy completion of the railway without exceeding the budget and preservation of historical relics of such high value?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): To strike a balance between development and conservation, or between archaeology, preservation of relics and urban construction, it requires decision of the Government and society.

At present, the Development Bureau is considering the views provided by the Antiquities and Monuments Office and is dealing with this issue. I believe that they will come up with a wise decision in which discovery of historical relics will not hinder the construction and development of the city as a whole. Besides, we also need to consider the value of the relics themselves, the condition and method of conservation. We can consult the opinions of many experts on how to commence the construction work of the museum or the archaeological work.

MR TANG KA-PIU (in Cantonese): *Deputy President, concerning the figures in the Annex, I have confidence that the numbers of attendances in 2014 will be higher than those of 2013. However, I would like to ask questions on the breakdown figures. First, what are the actual number of visitors with free entry and the number of visitors with paid entry? These figures can help predict the changes or the development of policy.*

Second, what are the numbers of local visitor and tourists? For a quality museum, tourists will be attracted simply because of its reputation. Do we have such a vision and can we achieve that purpose?

SECRETARY FOR HOME AFFAIRS (in Cantonese): At the moment, I do not have the actual figures for the comparison of visitors with free entry and visitors with paid entry. But I can tell Mr TANG that the number of visitors with paid entry is definitely higher than that of visitors with free entry.

In regard to the numbers of local visitors and tourists, at present, tourists account for about a quarter of the total number of visitors to our museums, which is about 25% to 26%. In comparison with the international mega museums, the number of tourists accounts for 35% of the total number of visitors to the Metropolitan Museum of Art in the United States. For Musée du Louvre in France, more than half of the visitors are tourists, or 65% of the visitors are tourists and not local people.

MR PAUL TSE (in Cantonese): *Deputy President, based on the reply given by the Secretary just now, a lot of efforts are required if we want to identify tourist resources. But in this aspect, have the authorities study the percentage of tourists in each museum? In the last paragraph of the main reply, the Secretary mentioned that we had, from time to time, organized blockbuster exhibitions to display exhibits from the Mainland, including exhibits from the Palace Museum and the National Museum of China. If 80% of the tourists in Hong Kong are already Mainland tourists at present, the attractiveness of our exhibition on Mainland exhibits to tourists may not be very high.*

The figures concerned can help us study the direction of development of a certain museum, as well as the direction of blockbuster exhibitions. Will the authorities conduct a detailed study on the differences in this aspect?

SECRETARY FOR HOME AFFAIRS (in Cantonese): We will conduct a detailed study. We have already established three Museum Advisory Panels and there is participation of experts in this respect. They will consider the direction of exhibitions held by our museums, and the target visitors of each exhibition,

that is, whether they are local visitors or tourists from other places. Of course, generally speaking, since the main functions of our museums are education and cultural heritage, we will put the Hong Kong society in top priority.

DEPUTY PRESIDENT (in Cantonese): Fifth question.

Joint Declaration on the Question of Hong Kong

5. **MR LEE CHEUK-YAN** (in Cantonese): *Deputy President, it has been reported that in July this year, the Foreign Affairs Committee of the House of Commons of the Parliament of the United Kingdom launched an inquiry into the United Kingdom's relations with Hong Kong 30 years after the signing of the Sino-British Joint Declaration on the Question of Hong Kong (Joint Declaration), and planned to send a delegation to Hong Kong this month. However, the Chinese Embassy in the United Kingdom told the chairman of the Committee last month that should members of the Committee attempt to visit Hong Kong, they would be denied entry. In this connection, will the Government inform this Council:*

- (1) *given that Article 154 of the Basic Law stipulates that "[t]he Government of the Hong Kong Special Administrative Region may apply immigration controls on entry into, stay in and departure from the Region by persons from foreign states and regions", whether the authorities know the legal basis for the Chinese Embassy in the United Kingdom to state that members of the aforesaid Committee would be denied entry to Hong Kong, as well as the number of occasions since 1 July 1997 on which the Ministry of Foreign Affairs of China denied entry of members of parliaments (MPs) of foreign countries to Hong Kong and the number of such MPs involved;*
- (2) *whether it has approached the Central People's Government to gain an understanding on whether the United Kingdom, as one of the signatories to the Joint Declaration, has any role in respect of the implementation, on and after 1 July 1997, of the basic policies of China regarding Hong Kong as set out in the Joint Declaration; if it has, of the details; and*

- (3) *whether it has approached the Central People's Government to gain an understanding on the purpose of the Chinese and United Kingdom governments registering the Joint Declaration with the United Nations in June 1985, and whether the United Nations or the organizations under it may monitor the implementation of the Joint Declaration?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, upon consulting the Department of Justice and the Security Bureau, our reply to the questions raised by Mr LEE Cheuk-yan is as follows:

As stated in the Preamble to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law), "Hong Kong has been part of the territory of China since ancient times; it was occupied by Britain after the Opium War in 1840. On 19 December 1984, the Chinese and British Governments signed the Joint Declaration, affirming that the Government of the People's Republic of China will resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997, thus fulfilling the long-cherished common aspiration of the Chinese people for the recovery of Hong Kong."

On China's basic policies regarding Hong Kong, Paragraph 3(12) of the Joint Declaration and Section 1 of Annex I "Elaboration by the Government of the People's Republic of China of its Basic Policies Regarding Hong Kong" thereto have stated clearly that China's basic policies regarding Hong Kong and the system of the Hong Kong Special Administrative Region (HKSAR) after its establishment are to be stipulated in the Basic Law to be enacted and promulgated by the National People's Congress pursuant to the Constitution of the People's Republic of China. The Basic Law was adopted at the Third Session of the Seventh National People's Congress of China on 4 April 1990 and has been put into effect since 1 July 1997. According to the explanations by JI Pengfei, Chairman of the Drafting Committee for the Basic Law, on the Basic Law (Draft) and its related documents at the Third Session of the Seventh National People's Congress, China's basic policies regarding Hong Kong have been incorporated into, and stipulated within, the Basic Law.

Since 1 July 1997, Hong Kong has become a special administrative region of China, and has been practising "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy" in accordance with the Basic Law. As reiterated by the spokesperson of the Ministry of Foreign Affairs of the State Council at the regular press conference on 3 December 2014 (and I quote), "Hong Kong has returned to China back in 1997, and is now a special administrative region of China. The 1984 Sino-British Joint Declaration makes distinctions about rights and obligations of China and the United Kingdom in terms of China's resumption to exercise sovereignty over Hong Kong as well as relevant arrangements during the transitional period. The United Kingdom has no sovereignty, jurisdiction or right of supervision over Hong Kong, and there is no such thing as 'moral obligation'." (unquote)

The reply to the substantive part of the questions is as follows:

- (1) The planned visit to Hong Kong by members of the Foreign Affairs Committee of the House of Commons of the Parliament of the United Kingdom concerns an international instrument signed between the Chinese and British governments, that is, the Central People's Government and a foreign government. The plans relating to the so-called "inquiry" by the members of the Committee and entry into Hong Kong for such purpose are official acts on the part of the United Kingdom in themselves. Moreover, these matters have been a subject of representations made by the Central People's Government to the British side (including the Committee) through diplomatic channels. As such, the matter clearly concerns the foreign affairs of China. Under Article 13(1) of the Basic Law, the Central People's Government shall be responsible for the foreign affairs relating to the HKSAR. The HKSAR Government has no further comment to add on this.
- (2) China has resumed the exercise of sovereignty over Hong Kong on 1 July 1997. Its basic policies regarding Hong Kong has been put into effect, manifested and stipulated in the Basic Law. The provisions of the Joint Declaration have been fully implemented, and its purpose and objectives have also been fully fulfilled. As stated above, the United Kingdom has no sovereignty, jurisdiction or right of supervision over Hong Kong, and there is no such thing as "moral obligation".

- (3) According to relevant information, Article 102 of the Charter of the United Nations provides that "[e]very treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it". The Joint Declaration was registered with the United Nations in order to fulfil the obligation under Article 102 of the Charter. According to the Treaty Handbook prepared by the Office of Legal Affairs of the Secretariat of the United Nations, where an instrument is registered under Article 102 of the Charter, this does not imply a judgment by the United Nations on the nature of the registered instrument, the status of a party, or any similar questions. As such, it certainly does not imply that the United Nations can "monitor" the implementation of a particular instrument on the basis of its registration by the relevant State.

Moreover, Hong Kong affairs are, in the words of the Spokesperson for the Secretary-General of the United Nations at the press briefing on 30 September this year, a "domestic matter". Article 2(7) of the Charter provides that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter".

Under the principle of sovereign equality of States as stipulated in Article 2(1) of the Charter, no State shall interfere in the internal affairs of another. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations in Resolution 2625 of the General Assembly (1971) stipulates that "[n]o State or group of States has the right to intervene, directly or indirectly, for any reason, whatever, in the internal or external affairs of any other State", and "[e]very State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State". The Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States in Resolution 36/103 of the General Assembly (1981) also provides for "[t]he sovereign and inalienable right of a

State freely to determine its own political, economic, cultural and social systems, in accordance with the will of its people, without outside intervention, interference, subversion, coercion or threat in any form whatsoever". Non-interference in each other's internal affairs is a basic norm of international relations and a fundamental principle of international law.

(Mr CHAN Chi-chuen stood up)

MR CHAN CHI-CHUEN (in Cantonese): *Deputy President, I request a headcount.*

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

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

(Some Members talked loudly in their seats)

DEPUTY PRESIDENT (in Cantonese): Members, please be quiet. Mr LEE Cheuk-yan, please raise the supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *Deputy President, I raise this question not because I have any expectations regarding the British Government. Indeed, the British Government has betrayed Hong Kong's democracy; our right to democracy has been betrayed by the British Government back in the 1980s. We have been double-crossed. Nevertheless, we would at least feel that as the Joint Declaration is an international agreement, there is no reason for the SAR Government to sweep it under the carpet. Let us now take a look at the main reply. The Government under LEUNG Chun-ying is just like a parrot, as the officials keep repeating the words of the spokesperson of the Ministry of Foreign Affairs of the State Council. I cannot help but ask whether this is the stance of the SAR Government. If the The United Kingdom has no sovereignty,*

jurisdiction or right of supervision over Hong Kong after the reunification, and there is no such thing as "moral obligation", what is the purpose of the Joint Declaration? Is it not an international agreement? Does that mean it has been swept under the carpet? An international agreement is an agreement signed by the two signatory countries concerned. If the agreement is not invalid, why does one of the signatories not have moral obligation and right of supervision? As such, can the Secretary clarify whether the Joint Declaration has already become invalid or the relevant agreement as a whole has been destroyed, so much so that the British Government does not have any moral obligation and right of supervision over Hong Kong? Can the Secretary inform this Council whether the Joint Declaration is now invalid?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, regarding the matters involved in this supplementary question, I believe we need to look carefully at the clauses regarding the major objectives, purpose and operating details of the Joint Declaration. As I have mentioned in my main reply, the Joint Declaration concerns mainly with the future arrangement for Hong Kong as at that time. The Joint Declaration has two major objectives: First, both the Chinese and British sides affirm that the People's Republic of China will resume exercising sovereignty over Hong Kong with effect from 1 July 1997, and this is one of the very important objectives. Second, the Joint Declaration has in place specific clauses stipulating the way to maintain Hong Kong's stability and prosperity during the transitional period before the Reunification Day, 1 July 1997.

Let us look at the major parts of the Joint Declaration which involve the statement made by the British Government. Actually, those parts have been implemented as history moved on and the functions concerned have also been fulfilled. In short, the purpose and objectives of the relevant clauses have all been realized. For example, Paragraph 2 of the Joint Declaration states that "[t]he Government of the United Kingdom declares that it will restore Hong Kong to the People's Republic of China with effect from 1 July 1997", and this has been fulfilled. From this perspective we can see why the main reply says the United Kingdom has no sovereignty, jurisdiction or right of supervision.

Besides, Annex II of the Joint Declaration has mentioned about the Sino-British Joint Liaison Group. The Joint Declaration says in Paragraph 6 of its Annex II: "The Joint Liaison Group shall be an organ for liaison and not an

organ of power. It shall play no part in the administration of Hong Kong or the Hong Kong Special Administrative Region. Nor shall it have any supervisory role over that administration. The members and supporting staff of the Joint Liaison Group shall only conduct activities within the scope of the functions of the Joint Liaison Group." In Paragraph 8 of the same Annex, it is said that the Joint Liaison Group would have completed its work and be dismissed by 1 January 2000. Deputy President, the paragraphs indeed speak for themselves. Let me cite Paragraph 6 of Annex II as an example. It was stated clearly in those days that the Joint Liaison Group should be an organ for liaison of the Chinese and British Governments, rather than an organ of power. It was also stated clearly that the Joint Liaison Group would not play any part in the administration of Hong Kong or the Hong Kong Special Administrative Region (before and after the Reunification), and that it should not " have any supervisory role over that administration". Hence, we can see from these clauses and history the background leading to the "three NOs" referred to in my main reply, which was quoted from the spokesperson of the Ministry of Foreign Affairs of the State Council. In addition to such historical background, the clauses of the Joint Declaration can also serve as evidence.

MR LEE CHEUK-YAN (in Cantonese): *Deputy President, I asked the Secretary this very simple supplementary question: Is the Joint Declaration now invalid? He may answer yes or no. However, I have never asked him about the "three NOs".*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I have already mentioned in the main reply that the purpose and objectives of the Joint Declaration have been fully fulfilled, and from this we can see that its historical role has completed.

DR CHIANG LAI-WAN (in Cantonese): *Deputy President, I wish to ask the Secretary this question: As China's ambassador to the United Kingdom has written an article in the British newspaper The Telegraph to point out that*

denying entry of the Foreign Affairs Committee of the House of Commons of the Parliament of the United Kingdom this time is in line with our country's Constitution, could the Secretary explain to us the legal basis involved?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, it is true that I do not have any legal background, but I will try my best to explain. Regarding the Constitution, Basic Law and international laws referred to in an article in *The Daily Telegraph* or *The Telegraph* written by the ambassador to the United Kingdom, I have mentioned about our Constitution in my main reply, and the HKSAR was established under Article 31 of the constitution. I have also mentioned in my main reply that Article 13(1) of the Basic Law clearly stipulates that the Central People's Government shall be responsible for the foreign affairs relating to the HKSAR. As regards international laws, perhaps the information I have here may answer the question raised by Dr CHIANG Lai-wan. According to the colleagues of the Department of Justice, generally speaking, it is a matter of sovereignty for a country to permit or deny the entry of aliens into its territory. They have also quoted a book on international laws entitled *Oppenheim's International Law*. Page 391 of the book points out (and I quote): "As far as the customary Law of Nations is concerned ... no state can claim the right for its subjects to enter into and reside on the territory of a foreign State. The reception of aliens is a matter of discretion, and every State is by reason of its territorial supremacy competent to exclude aliens from the whole or part of its territory." (unquote) Hence, whether we view it from the perspective of our country's Constitution, the Basic Law or the general principle of international laws referred to just now, our country has the right to make such a decision.

DR LAM TAI-FAI (in Cantonese): *Deputy President, the Chief Executive has remarked in public that some external forces were involved in Hong Kong's political activities, and that he would, at the right time, consider disclosing the relevant evidence and making such evidence public. Deputy President, I do not need to wait until the Chief Executive makes public the relevant evidence, as I can tell from this oral question that some external forces have been trying to intervene and get involved in Hong Kong's matters. Besides, I cannot rule out any possibility that some political organizations and groups are collaborating and liaising with such external forces, as well as participating in and tying in*

with their activities to incite trouble, engage in sedition, steal state secrets and subvert the country's sovereignty.

Deputy President, the incumbent Government has already made it clear that it would not legislate for Article 23 of the Basic Law in its current term of office, and that it would not give the final word — just now the Secretary has not made the final word either — that the Joint Declaration is now totally invalid. Deputy President, here is my supplementary question: In addition to continuously using such method as giving verbal warning, making criticism or rebuttal in the air, does the Government have any other effective and lawful ways to curb and combat the intervention and involvement of these external forces in Hong Kong's internal affairs, with a view to safeguarding the country's sovereignty over Hong Kong and ensuring the continuous stability and prosperity of Hong Kong?

(Mr LEE Cheuk-yan stood up)

MR LEE CHEUK-YAN (in Cantonese): *Deputy President, point of order. I think what he has said is totally unrelated to the scope of my oral question. Please make a ruling.*

DEPUTY PRESIDENT (in Cantonese): Just now Dr LAM has referred to the Joint Declaration in the last part of his supplementary question. Secretary, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, regarding the supplementary question raised by Dr LAM Tai-fai, according to my understanding, many issues of this kind have to be handled by negotiating through diplomatic means with the countries trying to intervene in Hong Kong's internal affairs. Let me cite the recent remarks made by the Foreign Affairs Committee of the Parliament of the United Kingdom as an example — we can tell from its name that it is a committee dealing with foreign affairs. According to my understanding, different levels of the Ministry of Foreign Affairs of our country, such as the Ambassador and the Office of the Commissioner of the Ministry of Foreign Affairs, have correspondingly taken up the matter with the British Consulate-General Hong Kong through different channels. Over the past few days, many foreign governments have tried or

attempted to intervene into Hong Kong's internal affairs (including the constitutional reform), and the Ministry of Foreign Affairs of the State has made strong response to such activities correspondingly. As for the part of the SAR Government, we have made many public statements in this connection. These are some of the "open" ways, but if there should be intervention through other channels, I believe the relevant ministries of the State would certainly take follow-up actions correspondingly.

DEPUTY PRESIDENT (in Cantonese): Dr LAM, has your supplementary question not been answered?

DR LAM TAI-FAI (in Cantonese): *The Secretary has not answered, or perhaps he has misunderstood my supplementary question. My supplementary question is that as the Government would neither legislate for Article 23 of the Basic Law in its current term of office nor give the final word that the Joint Declaration has become totally invalid, but just kept on giving some verbal warning and making rebuttal and statements in the air, it could hardly stop the external forces from incessantly intervening and involving in Hong Kong's affairs. As such, just now I asked the Secretary whether the Government has any other specific effective and lawful ways to curb and combat the intervention and involvement of these external forces in Hong Kong's internal affairs, in addition to giving verbal warning and making criticism in the air. I hope the Secretary can inform us of some specific measures, such as arresting all the persons concerned or adopting other approaches.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, taking up the matter through the Ministry of Foreign Affairs of the State is a more civilized way to handle the matter diplomatically. If we were aware that some unlawful activities had taken place within Hong Kong, we would certainly institute stringent investigation, follow-up actions and prosecution in accordance with the law.

MR ALBERT HO (in Cantonese): *Deputy President, if the return of Hong Kong's sovereignty and the governing of Hong Kong in the subsequent 50 years — such as implementing "one country, two systems" and "a high degree of autonomy" — are purely internal affairs of China, what is the point of signing the Joint Declaration? Would it not be better to have the People's Liberation Army stationing in Hong Kong directly and take over the sovereignty? Why did they have to sign an international agreement and register it with the United Nations? The Secretary just keeps saying that as the sovereignty has been returned completely and the tasks concerned have all been completed, the Joint Declaration has fulfilled its purpose. But then, what is the point of specifying the condition of "remain[ing] unchanged for 50 years"? Why was this condition included in the Joint Declaration? What is the point of registering the Joint Declaration with the United Nations?*

Here is the supplementary question I wish to ask the Secretary: Is the Chinese Government telling the whole world that despite its past efforts in striving for international recognition of the Joint Declaration and the status of Hong Kong as a special administrative region, everything it had promised just lapsed as time passed by? Even though countries all over the world, including the United Nations and the United Kingdom which is one of the signatory countries, do not have any specific authority to intervene in Hong Kong's affairs, should they not have the "moral obligation" to monitor matter at the very least? Does that mean everything has vanished, has all become invalid? Does that mean we should make no mention of the Joint Declaration and resolve problems behind closed doors? Is that the case?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, as Mr Albert HO is so agitated, I need to remind him that Paragraph 4 of the Joint Declaration states very clearly that, "[t]he Government of the United Kingdom and the Government of the People's Republic of China declare that, during the transitional period between the date of the entry into force of this Joint Declaration and 30 June 1997, the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability; and that the Government of the People's Republic of China will give its co-operation in this connection." According to this clause, if the United Kingdom should have any moral obligation, I believe such obligation refers to the United Kingdom's responsibility under the Joint Declaration to maintain Hong

Kong's economic prosperity and social stability during the period between the date of the Joint Declaration was signed and 30 June 1997.

MR ALBERT HO (in Cantonese): *Just now I asked the Secretary whether it was because "remain unchanged for 50 years" was no longer regarded as part of the Joint Declaration that nobody care to bother about it. However, the Secretary has not responded to this part of my supplementary question at all.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): The "remain unchanged for 50 years" undertaking is set out in another paragraph of the Joint Declaration, which is Paragraph 3. Paragraph 3 of the Joint Declaration is a declaration made by the Government of the People's Republic of China, not a declaration made jointly by the Government of the United Kingdom and the Government of the People's Republic of China. We need to read the Joint Declaration more carefully. In Paragraph 3 of the Joint Declaration, the Government of the People's Republic of China declares the 12 basic policies of the People's Republic of China regarding Hong Kong, and "remain unchanged for 50 years" was mentioned in Paragraph 3(12). These 12 basic policies have all been realized via the Basic Law, which I mentioned in my main reply just now.

As we can see, under Article 159 of the Basic Law, even if any amendment should be made to the Basic Law, no amendment "shall contravene the established basic policies of the People's Republic of China regarding Hong Kong". In other words, with effect from 1 July 1997, "one country, two systems", "a high degree of autonomy" and "Hong Kong people administering Hong Kong" should be implemented in Hong Kong in accordance with the Constitution of the State and the Basic Law. Other countries do not have any right of supervision or the so-called moral obligation.

DEPUTY PRESIDENT (in Cantonese): Last question seeking an oral reply.

Importation of Workers of Construction Industry

6. **IR DR LO WAI-KWOK** (in Cantonese): *Deputy President, according to the findings of a survey conducted by the Hong Kong Construction Association at the end of last year, there was a shortfall of more than 15% of workers, that is, over 10 000, in the construction industry. On the other hand, the Labour Advisory Board (LAB) endorsed on 26 March this year a proposal to expedite the labour importation processes for public works projects, including railway projects. The authorities have set up a dedicated task force to help examine the applications for importing labour of 26 designated trades prior to their submission to the LAB for vetting and approval (hereinafter referred to as "the enhancement measure"). Regarding the importation of workers of the construction industry, will the Government inform this Council:*

- (1) *whether it has assessed the effectiveness of the enhancement measure, including the extent to which the time for vetting and approval of applications for importing labour has been shortened and the percentage of successful applications has increased; if it has, of the details; if not, the reasons for that;*
- (2) *as the enhancement measure is only aimed at expediting the labour importation processes and is only applicable to public works projects and the 26 trades, whereas the manpower shortage in the construction industry remains serious, whether the authorities will expeditiously review the Supplementary Labour Scheme (SLS) and relax the various restrictions on labour importation, in order to meet the demand for construction workers when the infrastructure construction is in full swing; if they will, of the details; if not, the reasons for that; and*
- (3) *whether it will expeditiously work out a list of infrastructural projects prioritized according to their degree of urgency and conduct an comprehensive human resources survey in collaboration with the construction sector to facilitate a comprehensive review of the policy on importation of construction workers; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President and Honourable Members, the Government has all along been committed to implementing public works projects in accordance with work schedule and within budget with a view to improving the quality of life of the public and enhancing the long-term competitiveness of Hong Kong.

The Government and the Construction Industry Council (CIC) have been actively implementing a host of multi-pronged measures to cope with the tight manpower situation of the construction industry. These measures include enhancing training of local construction workers and attracting more new entrants to join the construction industry.

Although the abovementioned initiatives have been implemented smoothly and have attained certain results, the shortage of skilled construction workers has yet to be fully resolved. Hence, with due regard to the principle of not affecting the employment and not lowering the wages of local workers, the construction industry needs to import skilled workers in a timely manner. Currently, contractors having genuine difficulties in recruiting suitable staff locally may consider applying for importation of workers at or below technician level through the SLS.

My reply to Ir Dr LO's question is as follows:

(1) and (2)

The SLS commenced operation in 1996 with the policy objective that employers must accord priority to recruiting local workers to fill job vacancies at technician level or below in the labour market. If employers cannot recruit enough qualified local workers during the four-week local recruitment, the Labour Department will forward the applications with relevant information to the LAB for advice. The Government will then make the decision to approve or reject the applications.

The Government has rolled out the enhancement measure since mid-April this year to expedite the preparatory works for the SLS applications involving 26 trades with manpower shortage submitted by contractors for public works. In recent years, it took an average

of seven and a half months in processing construction-related SLS applications. The enhancement measure aims to complete the processing of the relevant applications within six months.

Hitherto, the average time for completing the processing of the applications under the enhancement measure was around four and a half months, which is much shorter than the target processing time of within six months. As other applications are still under processing, the Government cannot provide the percentage of successful applications under the enhancement measure at this stage.

As the aforementioned new arrangements have only been put in place for a short time, most of the applications are still being processed. We are closely monitoring the situation of individual applications. We will review the effectiveness of the new arrangements in a timely manner and explore and roll out other enhancement measures as required.

- (3) The Government has all along been adopting long-term planning for infrastructure projects and will continuously invest in worthwhile infrastructure in a timely manner to meet social needs and enhance Hong Kong's competitiveness. The Government will continue to prioritize its Capital Works Programme with due regard to the merits and urgency of individual projects and fiscal sustainability of the programme with a view to taking forward infrastructure projects in an orderly manner.

Further, to address the manpower needs of the construction industry, the CIC will continue to update regularly its assessment of the manpower supply and demand for skilled workers in light of the latest forecast of construction output of both the public and private sectors and will adjust in a timely manner its training initiatives to meet the industry demand. Notwithstanding, even taking into account training efforts, the construction industry will still be facing acute manpower shortage in the future. According to the CIC's latest forecast released in October this year, there will be a shortage of about 10 000 to 15 000 skilled workers in the industry in the coming years.

We are given to understand from the construction industry that there are some unique operational characteristics of the construction industry such that it would be facing some uncertainties in applying for labour importation through the SLS not encountered by other industries. For instance, before the award of a contract, a contractor cannot plan in advance their manpower demand of their project works. On the other hand, once a contract is awarded, the contractor will usually need to commence works shortly to meet the scheduled completion time. Besides, construction works are carried out in sequential order and they may be affected by factors such as weather conditions, supply of materials and manpower, progress of upstream work processes, and so on. These make it difficult for contractors to undertake accurate planning for their manpower requirements. In this connection, we will continue to maintain close liaison with the industry to explore further enhancements on importation of workers having regard to the characteristics of the industry so as to fulfil the needs of the community.

IR DR LO WAI-KWOK (in Cantonese): *Deputy President, the Secretary mentions in the main reply that the average time for completing the processing of applications under the enhancement measure of the SLS has been shortened to around four and a half months. Nonetheless, the percentage of successful applications under the enhancement measure is not available.*

Can the authorities inform this Council about the number of applications which have been processed under the enhancement measure, as well as the number of such applications which involve labour importation?

Deputy President, even if the factor of training is taken into account, there will still be a shortfall of 10 000 to 15 000 skilled workers in the industry in the next few years. Apart from making technical improvements to the SLS, will the Government consider the idea of further relaxing various restrictions on labour importation, or at least guide the community to discuss the issue seriously so as to forge a consensus?

DEPUTY PRESIDENT (in Cantonese): Which Secretary will give a reply? Secretary for Labour and Welfare, please.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I wish to thank Ir Dr LO for the question. The enhancement measure was introduced in mid-April, and we received the first application around the end of June. Until late November, we have received 15 applications in total. So far, two applications involving around 180 skilled workers have been approved, and the rest are still being processed. For most of the remaining applications, the four-week open recruitment is now being conducted.

IR DR LO WAI-KWOK (in Cantonese): *The Secretary has not answered the question about the relaxation of various restrictions on labour importation or at least it should guide the community to discuss such issues seriously.*

DEPUTY PRESIDENT (in Cantonese): Which Secretary will give a reply? Secretary for Development, please.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, over the past period, everybody can see that the construction costs of both public works projects and private residential buildings have kept rising. We are also aware of the labour shortage faced by the construction industry. Later on, we will guide the community to hold focused discussions so as to explore ways to deal with the reality of a rather prolonged shortage of skilled workers in the time ahead. At the same time, we will also conduct a review of the existing labour importation schemes to ascertain the need for further enhancement measures.

MR KWOK WAI-KEUNG (in Cantonese): *Deputy President, the Secretary's reply is actually very clear. The vetting and approval of labour importation applications are carried out under the existing SLS. After the launch of the enhancement measure, the time for vetting and approval has been shortened by nearly 40% from seven and a half months to four and a half months. If the authorities still intend to enhance the scheme at this moment, I must ask if they really want to "have workers delivered to the doorstep tomorrow after placing an order today".*

The wages of construction workers have increased substantially now. But why is the industry still unable to retain workers and plagued by manpower wastage? Why does it fall short of workers all the same? Actually, all these arise simply because the construction industry fails to build up a professional image and lacks a clear career advancement ladder, and incidents involving casualties occur frequently. Hence many people are reluctant to join this industry, and have instead chosen other professions.

May I ask the Secretary whether the Government will formulate a comprehensive and concrete strategy, rather than repeating its talks about how it will seek to enhance or relax the SLS, so as to satisfactorily discharge the three tasks, namely inducing young people to join the industry, providing on-the-job training to workers and strengthening practitioners' career development?

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, speaking of enhancing the professional image of the construction industry, I wish to point out that the CIC has already done much over the past few years. This includes the promotional "Build Up" programme, and also the television programme called "Dreams Come True", which are all familiar to Honourable Members. They are just part of our efforts. Our efforts in other respects include improvement on worksite environments and provision of showering facilities for construction site workers as far as practicable for them to get changed before leaving the worksites after a long day of work. Uniforms are also provided on some worksites. In fact, these efforts are now in progress.

The second point is about training. As everyone is aware, the CIC has been enhancing its efforts in this area. Not only has the number of training places been increased, the contents of the training programmes have also been augmented. Apart from basic craft training courses, short-term courses and skills enhancement courses are also offered to adults. Besides, we have also offered two types of training courses targeting at construction supervisors and technicians, which span 15 months and two years respectively. The target of the former is to train up 1 000 people by 2016, and up until October this year, around 300 people already participated in the training. Why do we have to do all this? Apart from coping with manpower shortage, we hope to build up a career development ladder for construction industry practitioners.

Likewise, we attach huge importance to industrial safety. During the time when the construction volume peaks, we essentially face two problems. One is manpower shortage, and the other is the possibility of more industrial accidents. I must say that one industrial accident is already way too many indeed, and the recent accidents on certain worksites are indeed saddening. Nevertheless, as Mr KWOK and other Honourable Members all know, we have in fact done a lot in the area of worksite safety over the past period. Compared with the rate 10 years ago, the rate of worksite accidents today has dropped drastically by at least 40%.

Despite our strenuous efforts to bring the above tasks to satisfactory completion, we are still unable to resolve the problem of tight labour supply plaguing us these days. We can see from the preliminary figures provided by Secretary Matthew CHEUNG just now that the number of skilled workers involved in the applications under the scheme is not large. Judging solely from the present progress, I think that we must conduct a review to ascertain the need for enhancement if we want to cope with the projected shortage of over 10 000 skilled workers in the next few years.

MR POON SIU-PING (in Cantonese): *Deputy President, we always have reservations about expanding the scale of labour importation, as we think that the present SLS is already able to resolve the shortage of the relevant skilled workers in Hong Kong. According to the Secretary, the Government has implemented public works projects in accordance with work schedule and within budget. But Members would also agree that the delay in works projects such as the Express Rail Link, the Shatin to Central Link and also the Hong Kong-Zhuhai-Macao Bridge projects is not caused by insufficient manpower. There have been criticisms that the delay is instead caused by the lack of planning and co-ordination among various departments, which includes their unsatisfactory arrangements for manpower supply.*

May I ask whether the Government will follow the example of the new airport, which was constructed many years back, and entrust higher-level officials such as Directors of Bureaux with the planning and co-ordination of infrastructure projects in Hong Kong, so as to bring about the orderly and healthy development of the construction industry in Hong Kong?

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, about manpower shortage, in fact the same situation is faced not only by building construction sites but also by railway projects. According to statistics, there is an approximately 20% shortfall in the manpower required.

In response to Mr POON's supplementary question about the planning and co-ordination of infrastructure projects, I wish to point out that actually, such projects are arranged in a sequence in the Government. As I have said in the main reply, we will prioritize such works projects with due regard to their social merits and urgency, as well as the fiscal sustainability of the Capital Works Programme.

On the other hand, we can also see that over the past few years, even if satisfactory planning has been formulated, many various uncertainties have still arisen in the course of implementing works projects, thus impeding their progress. Such uncertainties include the institution of judicial reviews or other legal challenges. We are also required to consult local communities before commencing works projects, and then take into account the concerns of community figures. What is more, in the course of executing works projects, we have to face certain practical problems. One example is that the geotechnical quality of a site may turn out to be poorer than evaluated. I would therefore say that there are many uncertainties in all these aspects. In respect of the appropriation requests we introduce into the Legislative Council, Honourable Members must also spend time on scrutiny. Therefore, no matter how we co-ordinate the projects ... In our estimation, public and private works projects in the next 10 years will be worth around \$170 billion to over \$200 billion in total. In fact skilled workers are lacking in the construction industry.

MR LEE CHEUK-YAN (in Cantonese): *In fact, the shortage of construction workers is mainly caused by the Government's planning. The Secretary is most culpable, as he has decided to compress all works projects into a short span of several years. In that case, manpower shortage will definitely ensue. If he had spread them more evenly over a longer period and arranged them in a better sequence, this situation could have been avoided.*

At present, construction workers are the most miserable, in the sense that they have to face either "death from starvation" or "death from overwork". About facing "death from starvation", I mean sometimes they can only work for several days in a month, and about facing "death from overwork", I mean they

must work overtime, which will in turn lead to more industrial accidents. The recent accident involving the Hong Kong-Zhuhai-Macao Bridge project has led to the death of four workers. Just now, the Secretary talked about a decline in the accident rate. But I must point out that the number of deaths is nonetheless on the rise. In fact, the authorities should likewise be held responsible for this, as they have failed to arrange works projects in a proper sequence. Some "white elephant" projects are utterly unnecessary, but the authorities insist on their implementation, resulting in many workers being drawn to such "white elephant" projects. Therefore, I would say the problem is caused by the authorities. With better planning, the authorities can spread works projects more evenly over a longer span of time, and in turn enable construction workers to work more stably. But instead of doing all this, they now threaten us by saying that they must import labour.

Hence, will the Secretary admit that the authorities should in fact be held most culpable for all this? Besides, I find one thing even more dreadful. I want the Secretary to clarify the meaning of "further enhancing the labour importation schemes". This is nothing more than a blatant move aimed at importing labour continuously in total disregard for the employment of local workers, is this not? Am I right to say that the only intention of the authorities is to do the business sector a favour, so that they can import labour and stop employing local workers?

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, Mr LEE Cheuk-yan's earlier criticisms concerning how the Government has taken forward works projects are in total defiance of facts and unfair. Why do I say so? As I said just now, some projects have come under legal challenges at the early stage of implementation. Some examples are the Victoria Harbour reclamation project and the Kai Tak development project years back, as well as the Central-Wan Chai Bypass project. They have invariably been delayed for prolonged periods, thus resulting in a drastic surge of construction costs. The Hong Kong-Zhuhai-Macao Bridge project is another example. Due to a judicial review instituted by a Tung Chung resident, the project has been delayed for a long time, and its works costs have similarly risen as a result. These are only some examples.

On the other hand, in the course of implementing works projects, we need to satisfy certain demands put forward by the local communities concerned during our consultation with them, and also to revise some of our plans

accordingly. All this invariably takes time. Therefore, no matter how good our intention is in setting the implementation sequence of works projects at the time of planning, we will face various uncertainties during actual implementation. In the case of the appropriation requests we have introduced into the Legislative Council recently concerning certain works projects, for example, everybody can see how filibustering and the non-cooperative campaign in the Legislative Council have come to impact on the granting of funding approvals for the projects concerned. Not only the approval of funding for the projects concerned has come under impact as a result, all the works projects have also been delayed. At this moment ...

MR ALBERT CHAN (in Cantonese): *Deputy President, a point of order. Please do a headcount according to Rule 17(2) of the Rules of Procedure.*

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

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

DEPUTY PRESIDENT (in Cantonese): Secretary for Development, please continue with your reply on Mr LEE Cheuk-yan's supplementary question.

SECRETARY FOR DEVELOPMENT (in Cantonese): I pointed out just now that the Government would prioritize its infrastructure projects with due regard to their merits and urgency, as well as the fiscal sustainability of the Capital Works Programme. But I must also point out that we often encounter certain unpredictable circumstances during our implementation of works projects, such as challenges arising from the institution of legal proceedings. We also need to make adjustments on the basis of the concerns put forth by community figures during our consultation with local communities, or to do so for other reasons. Over the past year or so, the appropriation requests introduced into the Legislative Council have met with filibustering, which has also upset the scheduled implementation order of works projects.

I wish to provide Honourable Members with some statistics here. The public works funding approved by the Legislative Council Finance Committee in 2011-2012 amounted to \$178.4 billion. The figure in 2012-2013 was \$100.6 billion, while the figure in 2013-2014 was only \$33.3 billion. Even if the one-off grant of \$13 billion for the Hospital Authority to undertake minor works projects is included in the computation, the funding approved in 2013-2014 merely amounted to some \$40 billion. We can see from the present progress that the amount of funding approved this year so far has already lagged far behind. Deputy President, if the same situation occurs this year, the volume of construction works will drop drastically several years later, which will affect our construction industry workers. This will affect not only our construction industry workers but also the entire community due to the multiplier effect.

Mr LEE Cheuk-yan said just now due to excessive works projects at one time, workers would face "death from repletion" as they did not have the capacity to take up all the works projects. He went on to say that in case of insufficient works projects, workers would instead face "death from starvation". I do not believe Honourable Members would like to see all this happen, and we must therefore strive to avoid these possibilities. I would also like to implore Honourable Members to understand our difficulties and speed up the vetting and approval of our appropriation requests.

Deputy President, Mr LEE Cheuk-yan asked in the last part of his question whether labour importation was really necessary. I wish to point out that the policy principles upheld by the Government in this respect are very clear. First, local workers must be given priority in employment. Second, the income levels of local workers must not be affected. Under these two principles ... We are now facing a shortage of construction workers. If we now refrain from enhancing our labour importation schemes whereby we can import a sufficient number of skilled workers at this very moment when we are most in need of such workers, we can hardly sustain our works projects, and construction costs will surge drastically as a result. At the end of the day, both sides will suffer. I do not think this is a wise choice.

DEPUTY PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Implementation of Family-friendly Policies by Government for Its Employees**

7. **MR ALBERT HO** (in Chinese): *President, regarding the implementation of family-friendly policies by various policy bureaux/government departments (B/Ds) for their employees, will the Government inform this Council:*

- (1) *of the overtime work arrangements and compensation methods currently adopted by various B/Ds for their employees, as well as the situations of their employees performing overtime work (with a breakdown by B/D);*
- (2) *which B/Ds have currently implemented the arrangements for flexible working hours, and whether such arrangements are applicable to both civil servants and non-civil service contract (NCSC) staff;*
- (3) *how the Government promotes the implementation of family-friendly policies (including the arrangements for flexible working hours and the provision of reasonable compensations to employees who have performed overtime work) among various B/Ds; and*
- (4) *whether the Government will comprehensively implement family-friendly policies in various B/Ds so as to take the lead in this respect; if it will not, of the reasons for that?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): *President, with regard to the enquiry on the implementation of family-friendly policies by government bureaux and departments (hereafter referred to as departments), my reply is as follows:*

- (1) *The administration of overtime work undertaken by civil servants in government departments is governed by the relevant Civil Service Regulations (CSR), Civil Service Bureau circulars or circular memoranda. Heads of Department (HoDs) have a responsibility to*

determine the staff complement required to deliver services efficiently and effectively. Overtime work may be undertaken only when it is unavoidable. It is an HoD's duty to ensure that overtime work is kept to the absolute minimum compatible with operational requirements, and that it is strictly controlled and properly supervised. According to the CSR, time off is the normal recompense for overtime work undertaken by civil servants. HoDs may grant time off to staff subject to exigencies of service. Where it is, or is likely to be, impracticable to arrange time off within one month or within a reasonable period of time from the date when overtime work is performed, overtime allowance may be paid to eligible staff. Since the administration of overtime work falls within the internal operations of individual departments, this Bureau does not have the information on overtime work undertaken by civil servants in individual departments.

Regarding the NCSC staff, HoDs may arrange their NCSC staff to perform overtime work having regard to operational needs. Since the remuneration offered to NCSC staff is an "all-inclusive" pay package, NCSC staff are not entitled to any allowance apart from the basic salary. Therefore, overtime work done by NCSC staff should be compensated by time off. Given that departments have the discretion to determine the details of the employment of NCSC staff having regard to their own circumstances, and that the administration of overtime work belongs to the internal operations of individual departments, the Civil Service Bureau does not have the information on overtime work undertaken by NCSC staff in individual departments.

- (2) Civil servants work in accordance with the conditioned hours of work of their grades. According to the CSR, HoDs may personally vary the actual hours of attendance of their staff to meet departmental requirements, subject to the conditions stipulated under the CSR being met. Concerning NCSC staff, their working hours are determined by the departments employing them in accordance with operational needs. The Civil Service Bureau does not have the information on the actual hours of work of staff in individual departments.

(3) and (4)

The Government strives to provide a family-friendly working environment to enable civil servants to cope with both work and family commitments. The Government has implemented the five-day week initiative since 2006 with the objective of improving the quality of civil servants' family life without affecting the overall level and efficiency of public services or incurring additional costs to the taxpayer. The Civil Service Bureau conducts biennial survey on the implementation of five-day week in departments. As revealed by the results of the last survey, around 106 800⁽¹⁾ civil servants (around 70.5% of the then prevailing civil service strength) were working on a five-day week work pattern as at 30 September 2012. The Civil Service Bureau has issued guidelines to departments, stating that departments should extend the five-day week initiative to NCSC staff wherever practicable and appropriate. According to the abovementioned survey, as at 30 September 2012, about 9 100 full-time NCSC staff (around 69% of the total number of full-time NCSC staff at that time) were working on a five-day week work pattern. The percentage is comparable to that of civil servants. At present, some civil servants are not yet able to work on a five-day week work pattern. The Government will continue to actively encourage departments to explore possible ways to migrate more staff to five-day week, subject to the four basic principles (that is, no additional staffing resources; no reduction in the conditioned hours of work of individual staff; no reduction in emergency services; and continued provision of some essential counter services on Saturdays/Sundays) and after staff consultation. The Government will also continue to encourage departments to arrange staff to work in five-day week posts by rotation where practicable and appropriate.

Besides, the provision of five working days of full-pay paternity leave to eligible government employees (including civil servants and NCSC staff) has been implemented since 1 April 2012. Since the implementation of the measure up to 30 September 2014, a total of

(1) The figures did not include civil servants working in government schools, the Judiciary, the Independent Commission Against Corruption, the Hospital Authority, the Vocational Training Council and the Hong Kong Monetary Authority, and so on.

7 036 eligible government employees have taken paternity leave. Currently, the abovementioned full-pay paternity leave arrangements are applicable to all eligible government employees (including civil servants and NCSC staff).

Suspension of Classes of Special Schools when Tropical Cyclone Warning Signal No. 3 is in Force

8. **DR FERNANDO CHEUNG** (in Chinese): *President, according to the existing policy of the Education Bureau, when Tropical Cyclone Warning Signal No. 3 (Signal No. 3) issued by the Hong Kong Observatory is in force, classes of schools for children with physical disabilities and schools for children with intellectual disabilities are to be suspended (the class suspension policy), but classes in mainstream primary and secondary schools will be as usual during such period. As such, students with disabilities studying in the former will not have classes, while those studying in the latter under the integrated education can go to school as usual. Some parents of students of special schools consider that the class suspension policy has caused inconvenience to them as well as deprived the students of their right to go to school and, therefore, the authorities should explore feasible ways to assist these students in going to school. In this connection, will the Government inform this Council:*

- (1) *of the purposes of the class suspension policy; whether it has assessed how far such purposes have now been served, and whether the impacts of class suspension on students' studies are proportionate to the risks to which they will otherwise be exposed;*
- (2) *when the class suspension policy was formulated, the changes made to it so far, and the date on which it was last reviewed; whether stakeholders (including parents) and the Equal Opportunities Commission had been consulted when this policy was formulated and revised; if so, of the details, including the date on which the last consultation was conducted; whether the authorities will expeditiously review the policy and consult various stakeholders; if they will, when the review will commence and the time required to complete it;*

- (3) *of the numbers of students with disabilities studying in mainstream primary and secondary schools who were injured or died in the course of their travelling to and from schools when Signal No. 3 was in force, in each of the past five years, and whether insurance compensations were provided to them as a result; if so, of the details; if not, the reasons for that, and whether it will review the coverage of the insurance policies procured by schools; whether it has assessed the differences in respect of the risks for students with disabilities who study in mainstream schools and for those who study in special schools in travelling to and from schools when Signal No. 3 is in force;*
- (4) *of the number of days on which classes of special schools were suspended in each of the past five years because Signal No. 3 was in force; whether the authorities have currently put in place any measure (such as temporary day nursery service) to assist parents of special school students, who need to go to work as usual, in taking care of their children during class suspension;*
- (5) *as teachers of special schools are required to work as usual when Signal No. 3 is in force, whether the parents of students of such schools have the right to choose bringing their children to school or otherwise; if so, whether the authorities have notified the schools and the parents accordingly; if they have not notified, whether they will expeditiously issue such notice;*
- (6) *whether it knows the current respective numbers of special schools which have expressly discouraged parents to bring their children to school when Signal No. 3 is in force, those which have advised parents not to bring their children to school and those which have refused to let parents to leave their children at the schools who had already gone there; and*
- (7) *whether it has assessed if the class suspension policy, under which students of special schools cannot have classes as those students in the mainstream schools do when Signal No. 3 is in force, has violated Article 26 of the International Covenant on Civil and Political Rights relating to all persons being equal, Article 13 of the International Covenant on Economic, Social and Cultural Rights*

regarding the right of everyone to education, Article 23 of the Convention on the Rights of the Child about taking care of children with disabilities and offering assistance to their parents in caring for such children, as well as Articles 7 and 24 of the Convention on the Rights of Persons with Disabilities relating to persons with disabilities having the right to education on an equal opportunity basis?

SECRETARY FOR EDUCATION (in Chinese): President, my consolidated reply to Dr CHEUNG's question is as follows:

It is a long-standing practice for the Education Bureau to suspend classes in the event of tropical cyclones or inclement weather conditions. We cannot confirm when this practice was first put in place. Students' safety en route to and from school as well as the smooth operation of mainstream schools or special schools are the primary considerations when contemplating class suspension. Class suspension arrangements are disseminated each year to the public through information leaflets, and radio and television announcements of public interest. The arrangements are also reviewed and refined from time to time having regard to the views of stakeholders.

Under the prevailing education policy, subject to the assessment and recommendation of the specialists and with parents' consent, students with more severe or multiple disabilities are placed in special schools for intensive support services. Other students with special educational needs may attend ordinary schools. In general, students of schools for children with physical disability and intellectual disability have weaker self-care ability. Hence, these schools may take longer time and more extensive preparations to arrange for their students to travel to and from school in inclement weather conditions. In view of the potential risks that the fast-changing weather conditions may have on these students, for the sake of students' safety, the Education Bureau will suspend classes for these schools when Signal No. 3 or above is in force.

If students have already set out for school when class suspension is announced under the abovementioned circumstance, schools for children with physical disability and schools for children with intellectual disability are required to activate their established contingency plans to ensure that the school premises are open and appropriately staffed until proper arrangements are made

for arriving students to return home at an appropriate time. When class suspension is announced by the Education Bureau, schools and parents have to act accordingly and take good care of the students. Schools are required to ensure that parents of their students are fully informed of the class suspension arrangements and the contingency plan in the event of tropical cyclones or inclement weather conditions. If enquiries or complaints are made from schools or parents in this respect, the Education Bureau will take follow-up actions as appropriate.

As mentioned above, the decision to suspend classes is based mainly on students' safety while travelling to and from school. It is absolutely not meant to deprive students' right to go to school nor go against the equal opportunity principle. In the past five years, the average number of school days having class suspended for reasons mentioned above is less than three days per year, and this should not have great impact on students' learning.

The Education Bureau does not have the number of students with disabilities studying in ordinary primary and secondary schools who were injured or died en route to and from school when Signal No. 3 was in force nor any records of relevant claims made under the Block Insurance Policy. The Block Insurance Policy arranged by the Education Bureau for schools aims to protect schools against financial losses arising out of their actions which result in accidental injury to any persons and employees; and/or accidental loss of or damage to any property, as well as to provide a financial consolation to students who suffer from accidental death or permanent disablement whilst participating in any school activities. Students travelling to and from school on self-arranged or public transportation are not covered by the Block Insurance Policy unless the transportation is arranged or provided by the schools, regardless of whether Signal No. 3 is in force. The Education Bureau is of the view that it is not necessary to extend the coverage of the Block Insurance Policy to other types of transportation or public transportation.

Revision of Textbooks for Liberal Studies Subject

9. **DR HELENA WONG** (in Chinese): *President, the Consumer Council earlier referred to educational experts for evaluation 13 revised senior secondary textbooks which were chosen and used by more schools in this school year, nine of which are on Liberal Studies (LS) subject. According to the evaluation*

results announced last month, of the nine LS textbooks, revision of five was considered to be somewhat necessary while revision of the other four was entirely unwarranted. The Consumer Council has pointed out that publishers revising textbooks at will add to the burden of parents. In this connection, will the Government inform this Council:

- (1) of the number of secondary schools using LS textbooks in each of the past three school years; if such statistics are unavailable, of the reasons for that;*
- (2) whether it has advised LS textbook publishers directly, or through the trade associations concerned, to publish the supplementary or revised contents of the textbooks in the form of appendices as far as possible to reduce the need for revising textbooks for this subject; if it has, of the outcome; if not, the reasons for that; and*
- (3) given that publishers may submit their textbooks to the Education Bureau for review for inclusion in the Recommended Textbook List (RTL), and that the Education Bureau has stipulated that the textbooks included in RTL are subject to the "five-year rule of no revision", whether the Education Bureau has considered accepting publishers' applications for review of LS textbooks so that when LS textbooks are included in RTL, the publishers may not revise such textbooks at will; if the Education Bureau has, when it will be implemented; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President, my reply to Dr Helena WONG's question is as follows:

- (1) Senior Secondary LS encourages students to engage critical thinking to tackle contemporary issues from multiple perspectives and put forward evidence-based views, judgment and suggestions. In view of the mostly evolving and ever-changing nature of contemporary issues, teachers should flexibly adopt a wide range of learning and teaching materials instead of relying solely on the contents provided by textbook publishers. Students should also explore on their own various materials in the course of learning so that they can make sensible judgment underpinned by concrete evidence and relevant

information. In the light of the above considerations, we are of the view that it is not the best option to use conventional textbooks for the learning and teaching of LS.

The Education Bureau has neither collected nor kept statistical data on the use of textbooks for individual subjects and hence is unable to provide the number of secondary schools using LS "textbooks" in the past three school years. In the course of our contacts with schools, we have learned that most secondary schools use diversified learning and teaching resources for LS, including drawing reference from "textbooks" produced by textbook publishers.

(2) and (3)

Based on part (1) above, we do not accept submission of LS "textbooks" for review at the moment. Nor does the "five-year no-revision" rule to LS. As mentioned in part (1) above, LS teachers should take a flexible approach to identify a diversified range of learning and teaching resources. In the process of identifying learning and teaching resources for LS, they should take into account the following two points: (a) whether the chosen resources can provide relevant background information and basic knowledge of perennial and contemporary issues; and (b) whether the chosen resources serve to bring out different values, interests, views, opinions and controversies of the evolving issues.

We have been providing for free a wide variety of practical curriculum resources, learning and teaching materials as well as assessment items for teachers through the Web-based Resource Platform for LS <<http://ls.edb.hkedcity.net>>. Developed in a way to cater for the various parts of the curriculum, the resources and materials available on the resource platform are regularly updated and enriched in order to lighten teachers' workload. Furthermore, we published in 2013 the Liberal Studies Curriculum and Assessment Resource Package (the Resource Package), which describes in more concrete details the learning focuses of each module and sets out examples for enquiry. We have also put in place a series of follow-up measures to support teachers in using the

Resource Package, including developing teaching exemplars and assessment items. The Resource Package has been well received by schools.

That said, the Education Bureau is concerned about the rather frequent revision of LS "textbooks" and plans to adopt the following targeted measures, which include:

- (i) actively exploring feasible ways to resolve the problem of frequent revision of LS "textbooks" with textbook publishers through established mechanisms and channels, and encouraging them to supplement or update existing "textbooks" through "reprinting with minor amendments" in order to increase the chance of reusing textbooks of older versions;
- (ii) in the long run, studying the viability of accepting the submission of LS textbooks for review and formulating textbook review requirements and criteria appropriate to the unique learning requirements and contents of LS for the purpose of quality assurance;
- (iii) continuing to disseminate through circulars to schools and seminars for teachers the requirements and criteria for selecting quality textbooks and curriculum resources, reminding schools to give careful consideration to whether there is a genuine need to choose LS learning resources which have not been reviewed, and cautioning against relying heavily on a single source of learning material as well as increasing parents' financial burden; and
- (iv) sharing and promoting good practices regarding the use and management of learning and teaching resources identified through school visits and professional networks.

We believe that the above measures can help resolve the problem of frequent revision of LS "textbooks" and mitigate reliance by teachers and students on LS "textbooks" which have not been reviewed.

Furthermore, to alleviate the workload of teachers, especially those who are fresh to teaching LS, we will develop in the near future more "ready-to-use" learning and teaching resources for teachers and students, underpinned by appropriate professional support and training for teachers. Taking the interpretation of the curriculum by the Resource Package of 2013 as the blueprint, we are going to develop a series of resource booklets on the learning focuses of all individual modules. To be revised according to the outcomes of the consultation of curriculum review now underway, each of the resource booklets will include the learning focuses and examples of enquiry of the respective module, as well as the learning and teaching materials for all learning focuses of the three-year LS curriculum. In particular, the learning and teaching resources will provide teachers and students the necessary basic knowledge and concepts and issues of enquiry. The resource booklets will be developed and distributed to schools by phases from 2015 and will be updated as and when necessary.

Services and Support Provided by Government for the Bereaved

10. **MR LEUNG KWOK-HUNG** (in Chinese): *President, quite a number of members of the public have complained to me that the burial services currently provided by the Food and Environmental Hygiene Department (FEHD) are in short supply. They have encountered many problems when booking cremation sessions and waiting for niches, and so on. They have also pointed out that with an ageing population in Hong Kong, the existing burial services cannot meet the increasing demand. In this connection, will the Government inform this Council:*

- (1) *of the current number of cremators across the territory;*
- (2) *whether it will increase the numbers of crematoria and cremators; if it will, of the following information on the new crematoria and cremators to be provided in the coming five years: (i) the numbers, (ii) the completion dates and (iii) the locations (set out one by one in a table);*

- (3) *of the number of new niches to be provided by FEHD in each of the coming five years and the completion dates;*
- (4) *given that at present, when members of the public book online the cremation service provided by FEHD, they can only choose from the cremation sessions available within the next 15 days, whether the authorities will consider extending the number of days available for booking to 30 days, so as to make available more sessions for members of the public to choose; if they will, of the implementation date; if not, the reasons for that;*
- (5) *whether it will consider increasing the amount of the burial grant provided for recipients of the Comprehensive Social Security Assistance (CSSA) Scheme, so that the amount can cover the costs for religious (especially the Taoist and the Buddhist) funeral services; if it will, of the amount to be increased and the implementation date; if not, the reasons for that;*
- (6) *whether it will plan the use of more lands in the North East New Territories New Development Areas for the construction of funeral parlours, crematoria and columbaria; if it will, of the details; if not, the reasons for that;*
- (7) *whether it will expand the existing public columbaria by converting them to buildings of not lower than 20 storeys, so as to meet the demand for niches; if it will, of the details; if not, the reasons for that;*
- (8) *of the respective numbers of cases in which members of the public used the services of scattering cremated ashes in Gardens of Remembrance and at sea in each year since 2013; and*
- (9) *whether it collaborated with non-profit-making or charitable organizations in promoting green funeral services in the past five years; if it did not, the reasons for that; if it did, of the details and whether it will increase such services?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, on funeral matters, it is the Government's policy to encourage cremation and to provide the public with efficient and dignified cremation service. Meanwhile, the Government is adopting a multi-pronged approach to help the public handle the ashes of their ancestors properly. Relevant measures include increasing the number of public niches, regulating private columbaria through legislation and promoting green burial (including the scattering of ashes in Gardens of Remembrance and at sea) which is a more environmental-friendly and sustainable way for handling ashes.

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

- (1) There are currently 26 cremators in the territory, distributed in six crematoria under the management of the FEHD.
- (2) In view of the increasing demand for cremation service, the Administration embarked on a reprovisioning and modernization programme for cremators in 2003 to enhance the efficiency of cremators and improve the control of the quality and volume of air pollutant emissions so as to meet the latest environmental protection requirements. The reprovisioning of cremators at Wo Hop Shek Crematorium and Cape Collinson Crematorium (Phase 1) was completed in early 2013. Upon completion of the works for Cape Collinson Crematorium (Phase 2) at the end of 2015, the annual cremation capacity in the territory is expected to increase from about 43 900 sessions to 52 800 sessions. This will be sufficient to meet the demand for cremation service up to 2025. As regards the long-term development of crematoria, please refer to our reply to part (6) below.
- (3) The expected number of additional niches to be provided by FEHD in the coming five years is as follows:

<i>District</i>	<i>Site for the proposed columbarium development</i>	<i>Expected year of completion*</i>	<i>Number of niches expected to be provided*</i>
Tuen Mun	Part of the Tsang Tsui ash lagoon next to Black Point Power Station	2018	160 000

<i>District</i>	<i>Site for the proposed columbarium development</i>	<i>Expected year of completion*</i>	<i>Number of niches expected to be provided*</i>
North District	Wo Hop Shek Cemetery	2019	44 000
Kwai Tsing	Tsing Tsuen Road near the Tsuen Wan Chinese Permanent Cemetery	2019	20 000
Total			224 000

Note:

* Assuming that all goes well for the relevant projects.

- (4) According to the pledge of FEHD, applicants may book a cremation session within the next 15 days from the day of submitting applications. If all cremation sessions are booked, the FEHD will provide additional sessions immediately to meet public demand. This arrangement not only fulfils the public expectation of arranging cremation service for the deceased as soon as possible, but also facilitates the early disposal of dead bodies in the interest of public health. The FEHD understands that most of the applicants prefer conducting cremation on weekends, holidays or other special days. As such, the regular maintenance of cremators will be carried out on weekdays as far as practicable to minimize the impact on the service in the abovementioned days.
- (5) The CSSA Scheme provides a safety net to meet the basic needs of those who cannot support themselves financially. Under the CSSA Scheme, a burial grant is payable to the deceased recipient's relatives/friends to cover the burial expenses of the deceased recipient. Such expenses may include charges for the death certificate, coffin, clothing for the deceased, cremation and hiring of ritual hall, and so on. The amount of burial grant payable equals to the actual expenses after deducting the condolence money or the maximum level of the grant (currently at \$13,200), whichever is less. The maximum level of the grant is pegged to the burial grant payable

under the Emergency Relief Fund, which is adjusted annually in accordance with the movement of the Consumer Price Index (A). It was increased by 5.1% on 1 April 2014 according to the above mechanism. We will continue to adjust the maximum level of the burial grant according to the established mechanism.

- (6) To address the demand for funeral services in the medium and long term, the Government is planning to develop public funeral facilities (including a funeral parlor with around 30 service halls, a crematorium with 10 cremators and columbarium facilities providing 200 000 niches) at the Sandy Ridge Cemetery, with a view to providing the public with one-stop funeral services. These facilities are expected to be completed in phases from 2022 onwards.
- (7) The FEHD carried out extension or addition works in Wo Hop Shek Columbarium, Kwai Chung Columbarium, Cape Collinson Columbarium, Diamond Hill Columbarium and Cheung Chau Cemetery from 2006 to 2013, providing more than 76 000 new niches in total.

The FEHD will continue to review the feasibility of building additional niches in public cemeteries and columbaria. However, the scale of extension work is inevitably subject to such constraints as space, transport infrastructure support and other factors which include the views of the neighbourhood, and so on.

To encourage the public to better utilize existing resources to meet public demand, the FEHD has also, with effect from January 2014, relaxed the arrangement of placing additional sets of ashes into public niches, including (i) relaxing the definition of "close relative"; and (ii) allowing the public to place more than two sets of ashes in a standard niche and more than four sets in a large niche (if they so prefer).

- (8) In 2013, the numbers of cases of scattering of ashes in Gardens of Remembrance and at sea are 2 354 and 797 respectively. In 2014 (as at the end of November), the numbers of such cases are 2 469 and 793 respectively.

- (9) The Government is committed to promoting green burial by encouraging the public to use a more environmental-friendly and sustainable way for handling ashes, including scattering ashes in Gardens of Remembrance or at sea and paying tribute to the deceased through Internet Memorial Service. The efforts made by FEHD to promote green burial mainly include participation in the annual Hong Kong Senior Fair, publication of handbooks and promotion materials on green burial and production of announcements in public interest. The FEHD has also, through elderly centers/homes and religious organizations, conducted seminars on green burial for the elderly and the public as well as organized visits for them to attend ceremonies of scattering of ashes in Gardens of Remembrance or at sea. The FEHD will continue to step up publicity and educational efforts to further promote green burial.

Business Environment for and Facilities of Public Light Buses

11. **MR MICHAEL TIEN** (in Chinese): *President, some public light bus (PLB) operators have relayed to me that the current policy of treating railways as the backbone of Hong Kong's public transport system has led to the continued expansion of the areas covered by railway services. Moreover, while other public transport services are also developing continuously, only PLB service remains stagnant, resulting in a continued decline in PLBs' patronage. On the other hand, the Government has, since 1 August 2004, required all newly registered PLBs be fitted with passenger seat belts. However, currently quite a number of old PLBs are not yet fitted with seat belts to strengthen the protection for passengers' safety. Regarding the improvement of the business environment for and facilities of PLBs, will the Government inform this Council:*

- (1) *as some PLB associations have proposed that the statutory ceiling for passenger seating capacity of PLBs be raised from 16 to 20 seats in view of the fact that currently many minibuses of new models are already fitted with 20 seats when they were manufactured, so that under the premise of no increase in the number of PLBs (thereby not generating additional road traffic load), PLBs' carrying capacity will be increased and the use of roads will be more effective, whether the Government will consider afresh adopting the proposal; if it will,*

of the details and implementation timetable; if not, the reasons for that;

- (2) as the existing legislation provides that PLBs may not operate on new expressways (such as Tsing Ma Bridge) or in new towns (such as Tung Chung) and new housing developments where adequate public transport services are planned, and the new towns have been well developed in recent years, whether the Government will review if such restrictions are outdated, and consider relaxing them; if it will, of the details; if not, the reasons for that;*
- (3) given that new railway lines have been completed and commissioned one after another in recent years, including the West Island Line (WIL) which will be partially commissioned at the end of this month, and the businesses of PLBs running to and fro Hong Kong Island West and other districts will thus be affected, whether the Government has consulted the green minibus operators prior to the commissioning of the WIL regarding the arrangements for rationalization of their service routes; whether it has plans to expeditiously cancel the "no stopping" zones for PLBs on Hong Kong Island, so as to give PLBs more business opportunities, thereby protecting the livelihood of PLB drivers; and*
- (4) given that the requirement for PLB passengers to wear seat belts has been implemented for a decade, whether it has evaluated the effectiveness of the requirement; if it has, of the details; whether the Government will consider introducing measures to encourage PLB operators to replace their buses with new ones, so as to ensure that all passenger seats of PLBs be fitted with seat belts?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, under the current public transport policy, railway is the backbone of our public transport system complemented by other public transport services. PLBs play an important role by, *inter alia*, providing feeder service to public transport interchanges, and serving areas where passenger demand is comparatively lower or the use of high-capacity transport modes is not suitable. With the opening of the WIL by the end of this month and four other new railway lines successively in the next few years, the role of railway in the public transport system will increase.

The Government would co-ordinate other public transport services, including PLB service, to ensure their healthy development.

In terms of PLB service, green minibuses (GMBs) provide fixed route services with regulated alignments, frequencies and fares. Red minibuses (RMBs), though subject to certain restrictions in their service areas, can provide more flexible service through market-driven alignments, frequencies and fares. Since the PLBs mainly serve a complementary role in the public transport system, a statutory cap of 4 350 has been set on the total number of the two types of PLBs.

My reply to the various parts of Mr Michael TIEN's question is as follows:

- (1) The GMB trade has suggested that the seating capacity of a PLB should be increased from 16 to 20. If the seating capacity of all PLBs increases accordingly, it would represent an increase of 25% in total passenger capacity, which is equivalent to an addition of 1 087 16-seat PLBs. In other words, increasing the number of passenger seats would consequentially increase the overall capacity of PLBs. In considering whether the suggestion is feasible and desirable, the Government has to study the long-term operational and financial implications for the PLB trade and the impact on other public transport services and road management. One of the issues of concern would be the overall supply of and demand for public transport services as well as the division of labour among the different modes. In this connection, the Government has earlier advised at a meeting of the Panel on Transport of the Legislative Council that it would explore this suggestion together with other related issues in detail under the Public Transport Strategy Study.

Meanwhile, the Transport Department (TD) will continue to implement various measures to help the GMB trade improve their operating environment. Such measures include rationalizing GMB routes and adjusting service timetables as necessary, and assisting operators to deploy vehicles flexibly during peak hours as far as practicable to meet passenger demand. The TD also encourages operators to explore sources of non-fare box revenue (such as advertisements on vehicle bodies or inside compartments) to increase their income.

- (2) Under the current policy, the TD may, according to passenger needs, arrange GMBs to provide service in different areas in Hong Kong and to use newly commissioned expressways. If the TD considers that PLB service should be introduced in a certain area having regard to various factors including passenger demand and other public transport services available, GMB service will be arranged. Indeed, GMB service is available in new towns such as Tsing Yi and Ma On Shan developed in earlier years, as well as in places such as Tseung Kwan O and Kai Tak which are still developing. Regarding the proposed introduction of GMB service in Tung Chung, the TD will continue to keep in view the situation, including the development of the area and its population growth. The TD would consider strengthening public transport services according to demand where necessary, and whether it is feasible and desirable to introduce GMB service will be one of the options considered.

As for RMBs, owing to the need to step up traffic management, the Government has since mid-1970s restricted RMBs from providing service in newly developed areas with a comprehensive rail and bus network and from using newly commissioned expressways. Since the service alignments and frequencies of RMBs are not subject to regulation, these restrictions are still in force for maintaining effective traffic management. However, the TD can allow minor relaxation on a case-by-case basis where there is genuine demand and so long as other public transport services and road traffic will not be affected. For example, the TD has allowed RMBs to use certain road sections of the West Kowloon Corridor and Island Eastern Corridor since late 1990s.

If the RMB trade would like to seek partial relaxation of individual prohibited zones and passenger pick-up/drop-off restricted zones within their approved service areas, the TD will conduct careful assessment having regard to the actual situation of the road sections concerned. Factors for consideration include whether the relaxation will affect overall road traffic and other public transport services, the safety of passengers and drivers and pick-up/drop-off arrangements for other types of vehicles. The TD will allow appropriate relaxation if the impact of such relaxation is considered to be limited and the proposal is supported by the local community.

- (3) When mapping out public transport arrangements upon the opening of the WIL, the Government consulted relevant GMB operators and other stakeholders, and sought the views of PLB associations on the ancillary arrangements for feeder PLB service connecting the new railway stations. While the opening of the WIL will present challenges for the PLB trade, it will also bring new opportunities for PLBs to capitalize on their feeder role to absorb new patronage brought about by the new railway stations. To tie in with the opening of the WIL by the end of December this year, the Government will introduce three new railway feeder GMB routes connecting Southern District and Kennedy Town Station. The Government will also make appropriate ancillary arrangements to facilitate passengers to interchange between PLBs and the railway. Such arrangements include the setting up of GMB stops at Kennedy Town Station and PLB pick-up/drop-off points in the vicinity. As regards the PLB trade's request for relaxation of prohibited zones and passenger pick-up/drop-off restricted zones on Hong Kong Island for PLBs after the opening of the WIL, the TD will conduct careful assessment taking into account the factors mentioned in part (2) of this reply.
- (4) PLB passengers wearing seat belts will help minimize the chance of injury in traffic accidents. The Government has been enhancing PLB passengers' awareness of wearing seat belts installed on passenger seats through enforcement action, publicity campaigns and educational activities, and so on. In addition, the Government has required all PLBs registered on or after 1 August 2004 to be equipped with seat belts on passenger seats.

To encourage owners of old PLBs to replace their vehicles with more environmental-friendly new models (which are fitted with passenger seat belts), the Environmental Protection Department has on several occasions provided subsidies to the trades, such as granting of subsidies to owners of pre-Euro IV diesel commercial vehicles (including PLBs) with effect from March this year to encourage them to switch to greener and newer models. These incentive schemes for vehicle replacement will help increase the number of PLBs fitted with passenger seat belts. As at end November 2014, more than 60% of PLBs have already been fitted

with passenger seat belts. It is envisaged that with newer models of PLBs progressively replacing older ones, there will be more PLBs fitted with passenger seat belts.

The TD will continue to liaise with the PLB trade and encourage them to install passenger seat belts on PLBs currently not fitted with passenger seat belts, or replacing these PLBs with newer vehicles installed with passenger seat belts.

Disposal of Exhibits After ArtAlive@Park Exhibition

12. **MR ALBERT CHAN** (in Chinese): *President, recently, some members of the public have relayed to me that some artworks once exhibited at the ArtAlive@Park 2014 large-scale public art project (ArtAlive exhibition) were dismantled and discarded as rubbish after the exhibition. These members of the public are of the view that such an action is an utter disrespect for the creators of the artworks concerned. In this connection, will the Government inform this Council:*

- (1) *whether it knows the number of artworks which were discarded after the ArtAlive exhibition in each of the past five years, and the reasons for that; among them, the number of artworks which ended up in landfills; and*
- (2) *whether it will consider, in future ArtAlive exhibitions, discussing with the creators of the artworks to be exhibited to work out better ways to dispose of the artworks after the exhibitions, for example, donating them to social welfare organizations, putting them up for charity auctions, and so on; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): *President, as a public art project, ArtAlive@Park aims to provide an opportunity for students from the fine arts, design and architecture departments of local tertiary institutions to showcase their artistic talents so that they may, on top of theories, gain practical experience through participation in public art creation.*

Since 2010, three editions of ArtAlive@Park have been held. A total of nine units from local tertiary institutions have participated in the project. Each of the participating units produced three to 10-odd pieces of artworks of their own design for exhibition. Owned by the students and their institutions, such artworks were returned to the respective institutions after exhibition.

- (1) Given that the ArtAlive@Park exhibition is of short-term nature, some of the exhibits are, in terms of conceptual design, materials used and assembling techniques, produced for short-term display. In the past few years, the exhibits were returned to the respective institutions for disposal at their liberty after exhibition. None of such exhibits was discarded by the Government.
- (2) Depending on circumstances such as structural safety of the exhibits and technical feasibility, the Government is very keen to encourage continued display of such exhibits at other suitable venues after the ArtAlive@Park exhibition and is delighted to assist participating institutions in making such arrangements. The Government will also conduct active discussion with the collaborating units of ArtAlive@Park on the appropriate post-exhibition arrangements for and disposal of such artworks, with regard to their nature and condition.

In fact, some artworks produced by the participating institutions were put on display at other venues after the exhibition. For instance, "Fence Off", an art piece created by the Faculty of Architecture of the University of Hong Kong for ArtAlive@Park 2010, is now on display at the HKICC Lee Shau Kee School of Creativity. Furthermore, a number of artworks produced by the School of Design of The Hong Kong Polytechnic University were showcased at its campus and various exhibitions and venues in 2011, and some of them were later displayed at the HKICC Lee Shau Kee School of Creativity. Created by the School of Architecture of the Chinese University of Hong Kong for ArtAlive@Park 2012, "Sky Lines" was featured at the "REVEAL" Exhibition, organized by the Hong Kong Institute of Architects.

Measures to Combat Sale of Imitation Gold Ornaments

13. **MR CHRISTOPHER CHEUNG** (in Chinese): *President, it has been reported that recently some lawbreakers have engaged in the sale of dragon and phoenix bangles which are electroplated with genuine gold and of a design copying that of the gold ornaments sold at famous goldsmith shops. Quite a number of Mainlanders visiting Hong Kong as well as Hong Kong people planning to get married have purchased such imitation gold ornaments. Some members in the goldsmith industry have pointed out that since such imitation gold ornaments look almost the same as the authentic ones, such ornaments may be sold as genuine goods. Furthermore, such imitation gold ornaments may have allegedly infringed upon intellectual property rights and contravened the Trade Descriptions Ordinance (Cap. 362). In this connection, will the Government inform this Council:*

- (1) *of the number of cases involving imitation of gold ornaments that were cracked down on by the Customs and Excise Department (C&ED) in the past three years and the total value of the goods involved; whether any person was arrested or convicted for selling imitation gold ornaments; if so, of the details; if not, the reasons for that;*
- (2) *as it has been reported that the sale of imitation gold ornaments via channels such as social networking websites, auction websites, online shops and matrimonial websites is very rampant, whether the authorities have strengthened cyber patrols to curb such activities; if so, of the details; if not, the reasons for that; and*
- (3) *whether it will step up its publicity efforts to alert members of the public and tourists, so that they will not unknowingly purchase imitation gold ornaments and suffer losses as a result?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): *President, the trade practices as mentioned in the question may involve committing the offences under the Copyright Ordinance (Cap. 528) or the Trade Descriptions Ordinance (Cap. 362). Section 118 of the Copyright Ordinance prohibits making or dealing with infringing articles. Section 7 of the Trade Descriptions Ordinance prohibits applying a false trade description to any goods,*

or supplying any goods to which a false trade description is applied; while section 9 prohibits forging any trade mark, or falsely applying to any goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive.

The C&ED is the enforcement agency of the aforementioned ordinances. Copyright and trade mark owners also have the right to make a claim against infringers through initiating civil proceedings.

Our reply to the three parts of the question is set out below:

- (1) With regard to section 7 of the Trade Descriptions Ordinance, the C&ED had from January 2012 to November 2014 investigated into a total of 15 cases involving goods suspected to be falsely claimed to contain gold, or featuring false claims as to the fineness of gold. The C&ED successfully prosecuted one case and seized goods with a value of \$9,200. For the other 14 cases, the C&ED had after investigation found insufficient evidence for prosecution.

Over the same period, with regard to section 118 of the Copyright Ordinance and section 9 of the Trade Descriptions Ordinance, the counterfeit cases processed by the C&ED did not involve gold ornaments. For the recent media reports on imitation gold ornaments, the C&ED has proactively contacted local brand owners of gold ornaments concerned to gather more information. The C&ED has also asked them to report to the C&ED if they discover that their copyrights have been infringed or their trade marks have been forged.

- (2) The C&ED has set up Anti-Internet Piracy Teams and an Electronic Crime Investigation Centre to combat infringement activities on the Internet. An online monitoring system has been developed to strengthen the efforts in combating the sale of infringing articles on online auction sites. As to gold ornaments, the C&ED on discovery of suspected infringement cases will seek assistance from the relevant brand owners to verify whether copyright subsists in the counterfeit gold ornaments concerned or whether relevant trade marks have been registered in the Hong Kong Special Administrative Region. When there is sufficient evidence, the

C&ED will take enforcement actions, including arresting the infringers and seizing the counterfeit gold ornaments.

- (3) The C&ED has been making extensive publicity efforts, including promoting compliance among traders, explaining relevant statutory provisions to consumers, promoting the concept of "smart shopping" and reminding consumers to consider carefully before making consumption decisions.

The Hong Kong Tourism Board provides visitors with useful tips and information on shopping for gold items and jewellery, including suggesting tourists to purchase from reputable shops accredited under the Quality Tourism Services Scheme and to ask for official receipts. It also provides the telephone number of the Hong Kong Jewellers' and Goldsmiths' Association for visitors to make enquiries. The Consumer Council has set up the "Shop Smart Website" to provide visitors with consumer information.

Fire Safety at Railway Stations

14. **DR LAU WONG-FAT** (in Chinese): *President, as the patronage of MTR has continuously increased in recent years, some members of the public are concerned about the adequacy of fire service facilities at railway stations. In this connection, will the Government inform this Council:*

- (1) *whether it knows what fire service equipment has been installed at railway stations both the concourses and platforms of which are situated below the ground level;*
- (2) *whether it knows the current number of railway stations which are not equipped with automatic water sprinkler systems (together with a detailed list of the names of such stations), and the reasons for not installing such a system;*
- (3) *whether it has set a ceiling on the number of passengers that each of the platforms at railway stations may accommodate, and required the MTR Corporation Limited (MTRCL) to suspend the entry of passengers to a platform when the number of passengers there has*

reached the ceiling, so as to forestall the occurrence, in the event of fire, of trampling accident because the escape route is overcrowded; and

- (4) *whether it will consider limiting the number of shops in the concourses of railway stations, so as to avoid an excessive number of people congregating and staying inside railway stations?*

SECRETARY FOR SECURITY (in Chinese): President, in consultation with the relevant bureau and departments, as well as the MTRCL, the Administration's reply to the four parts of the question is as follows:

- (1) and (2)

At present, safety requirements of Mass Transit Railway (MTR) stations are subject to the approval of the Safety and Security Coordinating Committee (SSCC). The Committee is chaired by a representative of the Railways Branch of the Electrical and Mechanical Services Department (EMSD) and comprises representatives from the Fire Services Department (FSD), Buildings Department (BD), Highways Department (HyD), Hong Kong Police Force (HKPF) and the MTRCL.

The MTRCL conducts risk assessment for each station in seeking approval of fire safety requirements for MTR stations. With reference to the FSD's "Codes of Practice for Minimum Fire Service Installations and Equipment and Inspection, Testing and Maintenance of Installations and Equipment" as well as relevant performance-based design factors, the MTRCL proposes fire service provisions suitable for individual stations for the SSCC's scrutiny, while the FSD provides comments to the SSCC. Given the different geographical locations and features of individual stations, the fire service provisions for each station may vary. Generally speaking, MTR stations have the following fire service installations and equipment: fire hydrants/hose reel systems, emergency power supply and lighting, exit signs, portable hand-operated approved appliances (for example, fire extinguishers), fire alarm and detection systems, fire control centre, and so on.

Sprinkler systems are installed in areas with a higher fire risk (for example, shops) in MTR stations, while corresponding fire service installations and equipment are put in place at other areas in each station for passenger and public safety.

- (3) There exists a ceiling on the number of passengers that can be accommodated on a MTR station platform. Such ceiling varies for platforms of different stations as the number and design of compartments of trains serving various railway lines are not the same. A station platform is designed in accordance with the number of compartments and carrying capacity of trains to ensure it can operate in co-ordination with the train service. Indeed, a station platform can safely hold up to the maximum carrying capacity of the trains it serves.

The MTRCL has devised passenger flow management measures to maintain order when station platforms or concourses are overcrowded. Such measures include deploying staff at concourses and various exits of stations to provide passengers with information on train service, as well as at platforms to facilitate boarding and alighting to ensure smooth operation of train service and passenger safety. When necessary, the MTRCL will suspend the operation of some turnstiles and escalators to limit the number of passengers entering platforms from concourses. Should the situation warrant, the MTRCL will suspend entry to platforms to ensure passenger safety.

In the event of fire at stations, the MTRCL will activate the contingency plan endorsed by the FSD to evacuate passengers. During the planning of MTR stations, their design capacity is one of the considerations. Sufficient exits are provided to ensure safe evacuation even when the number of passengers inside the stations reaches the ceiling of the design capacity. Meanwhile, passenger flow management measures mentioned above can control the number of passengers inside the stations. With the implementation of these complementary measures, the risk of chaos during fire incidents can be minimized.

- (4) The MTRCL takes passenger safety and train service operation as the priority when planning for shops in MTR stations. Besides, during the planning process, the MTRCL has to obtain approval from government departments for matters such as changes to locations and areas of existing shops and increase or decrease in the number of shops. Government departments, including the HyD, the EMSD, the FSD, the BD, the Transport Department, the Lands Department, the HKPF and the Planning Department, are involved. Issues to be considered include the impact of the design of shops in stations and changes of such design on various directions of flow of passengers to and from the station, station safety and security (including evacuation routes, firefighting and rescue accesses, fire service installations and fire resisting constructions), and so on.

The MTRCL must obtain approval from the government departments mentioned above before they can actualize their planning for shops in stations. In vetting the MTRCL's applications, the government departments will duly consider various factors, including passenger flow and evacuation routes in case of fire, with a view to ensuring that railway service and safety will not be adversely affected.

Assistance Provided for Social Enterprises

15. **MR WONG YUK-MAN** (in Chinese): *President, according to the statistics published by the Hong Kong Council of Social Service in April this year, as at the end of last year, there were 457 social enterprises (SEs) in Hong Kong, representing an increase of 13% over the previous year. In addition, it has been reported that a survey in 2011 found that consumers are willing to pay 16% more, on average, for purchasing products in support of SEs, but only 18% of the respondents have patronized SEs. In this connection, will the Government inform this Council:*

- (1) *as some members of the public have pointed out that SEs are mainly engaged in the catering and retail industries and they have difficulties in competing with the business organizations operating in the same industries, of the measures put in place by the Home Affairs Department (HAD) to help SEs develop in the direction of diversification and innovation; and*

- (2) *as a consultant of SEs estimated that only half of the SEs have recorded operating profits, of the new and concrete measures, apart from stepping up publicity efforts and participating in the SE summit, put in place by the HAD to help improve the business situation of SEs?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, our reply to Mr WONG Yuk-man's question is as follows:

- (1) The Government is committed to promoting the development of SEs, not only for providing jobs for the socially disadvantaged and enhancing their self-reliance, but also introducing innovative approaches in achieving social objectives. To this end, the Home Affairs Bureau and the HAD have implemented, since 2006, a range of support measures, including the provision of seed money to non-profit-making organizations for setting up SEs under the Enhancing Self-Reliance Through District Partnership Programme (ESR Programme); supporting capacity building of SEs by granting subsidies to SE organizations for providing training programmes and support services; enhancing public awareness through school-based, district-wide, as well as territory-wide promotion and publicity programmes; and promotion of cross-sector collaboration for SE development through various platforms such as Social Enterprise Summit and "Be a Friend to SE" Campaign.

With the efforts over the past years, the SE sector in Hong Kong has made a solid growth, both in terms of quantity and quality. Together with the SE Advisory Committee (SEAC), the Home Affairs Bureau commissioned The Chinese University of Hong Kong and the Hong Kong Council of Social Service-HSBC SE Business Centre to study the latest landscape and service needs of the SE sector. According to the study, the number of SEs has increased from 260 in 2008 to more than 450 currently. The sector has shown a greater diversity in social objectives and the types of services provided, with only about 40% of SEs engaging in catering and retail businesses, and the rest are in other businesses, such as elderly and youth, medical, education, business and environmental

protection services. In recent years, more SEs have been innovative in their businesses. Some examples include SEs that engage in performance production, production of adventure programmes, organizing bicycle eco-tours, as well as translation services for ethnic minorities, and so on.

With the support of various sectors, we have witnessed increased public awareness of SEs. According to the abovementioned study, about 80% of respondents were familiar with SEs, and about 70% of them said that they would procure services or products provided by SEs. Take an example, SEs which are in the catering and retail businesses have also been benefited from public support for ethical consumption. The Administration will keep up our efforts in SEs-related promotion and publicity.

The two government funding programmes for SEs, namely, the ESR Programme and the "Enhancing Employment of People with Disabilities through Small Enterprise" Project, together created more than 3 200 jobs for the socially disadvantaged, which are solid contributions to society.

- (2) Many SEs are able to develop their businesses steadily while achieving their social objectives. About 60% of the SEs surveyed in the study mentioned in part (1) above said that they were able to break even or even make a profit in 2012; and 80% of the SEs funded under the ESR Programme remain in operation after the funding period.

Following consultation with the SEAC, the Administration agrees on the strategic directions proposed in the study report and will, on top of the existing programmes, focus its efforts in promoting the development of SEs in the following four areas, including enhancing support services for the operation of SEs provided by the SE support platforms; strengthening support for training and capacity building for SEs; enhancing the promotion of SEs at district level; and supporting SE support platforms to promote cross-sector participation, particularly the participation of the business sector.

Food Waste Recycling in Public Housing Estates

16. **MR FREDERICK FUNG** (in Chinese): *President, the Hong Kong Housing Authority (HA), in collaboration with three environmental groups, implemented a food waste recycling trial scheme (trial scheme) in 14 public housing estates from November 2012 to July this year. It has been reported that the HA no longer carries out food waste recycling in such housing estates after the trial scheme was ended. In this connection, will the Government inform this Council:*

- (1) *in respect of each of the aforesaid housing estates, of (i) the number of households which participated in the trial scheme, (ii) the method adopted for the recycling of food waste, (iii) the quantity of food waste collected each month on average during the relevant period, and (iv) the way adopted for disposal of the food waste;*
- (2) *of the outcome of the review of the trial scheme, including the problems encountered in respect of the modes and workflows adopted for the recycling, adequacy of the promotional and educational efforts, cost-effectiveness of the trial scheme, cultivation of the habit of waste separation and recycling among members of the public, and so on; and*
- (3) *whether it has formulated any plan for implementing food waste recycling in public housing estates; whether it will formally implement a food waste recycling scheme in all public housing estates and adopt different modes of food waste recycling in various housing estates with regard to the constraints therein; if it will not, of the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the HA is committed to promoting waste reduction and recycling in public housing estates through various schemes and measures, among which was the trial scheme mentioned in the question. Under the trial scheme, the HA collaborated with three environmental groups to trial run food waste recycling at 14 public housing estates by phases since November 2012 until end July 2014. My reply to the question raised by Mr Frederick FUNG is as follows:

The trial scheme covered 14 estates with about 3 200 households participated. About 640 tonnes of food waste were collected in the course. Two recycling mode were adopted under the trial scheme, *viz* the off-site recycling mode and the on-site recycling mode. The off-site recycling mode was adopted in 13 estates, including Lai Kok Estate, Tin Wah Estate, Tin Tsz Estate, Nam Shan Estate, Ching Ho Estate, Grandeur Terrace, Lai On Estate, On Yam Estate, Sun Chui Estate, Lei Muk Shue Estate, Kai Tin Estate, Tsz Ching Estate and Tin Ching Estate. Under this mode, food waste collected from the estates was transported to a central food waste recycling plant in the New Territories for conversion into fish feed. Lam Tin Estate adopted the on-site recycling mode, whereby food waste collected was converted into compost by using micro-organism for subsequent use in the community farm in the estate.

As revealed in the implementation of the trial scheme, on one hand, the on-site recycling mode was subject to space constraints of individual estates; on the other hand, it would involve higher labour and operating cost. Besides, the amount of food waste recycled was limited. Furthermore, due to odour nuisance and hygiene problem, it is difficult to find suitable venues for on-site recycling. As such, it would be more difficult to solicit general support from estate residents for the on-site recycling mode and its continuous implementation. Comparatively speaking, off-site recycling mode is more cost-effective. The extensive and continuous operation of this mode among residents is more plausible.

In conclusion, the trial scheme has enhanced environmental awareness and promoted recycling among the residents. Therefore, the HA is now contemplating to arrange off-site food waste recycling trial scheme in suitable estates so as to continue promoting waste reduction and recycling. We are now discussing with suitable food waste recyclers to work out the details.

The HA's concern is not confined to food waste. In order to reduce different types of waste, the HA has stepped up action to encourage waste reduction at source and carried out various promotional activities, such as the large-scale waste reduction campaign — "Let's join hand to reduce waste in our estates", to increase waste separation at source and waste recycling, with a view to reducing municipal solid waste generated in public housing estates.

Prices of Admission Tickets and Concessions of Hong Kong Disneyland

17. **MR CHAN HAN-PAN** (in Chinese): *President, it has been reported that some members of the public are dissatisfied that recently the Hong Kong Disneyland (HKD) not only increased its admission ticket prices but also reduced the offers under various concession schemes. For instance, starting from the New Year's Day of 2015, the dining and merchandise concessions offered under the Magic Access Platinum and Gold Membership Cards will be reduced to a level similar to those under the Silver Membership Cards. On the other hand, the Ocean Park has rolled out various exclusive offers for Hong Kong people to express gratitude for their support, which include a 20% discount offered to Hong Kong people who produced their Hong Kong Identity Cards when they purchased admission tickets during the period from the 24th of last month to the 12th of this month, as well as concession offers totalling as high as \$4,700 for Ocean Park's annual pass members. In connection with HKD's setting of prices for admission tickets and concessions, will the Government inform this Council:*

- (1) *whether it has proposed to HKD the offering of concessions on admission tickets exclusively to Hong Kong people as a reward for their support; if it has, of the details;*
- (2) *whether it has assessed if the reduction in concessions by HKD will result in a drop in attendances of Hong Kong people; if the assessment outcome is in the affirmative, of the relevant figures, and whether it knows if HKD intends to receive more visitors from places outside Hong Kong to make up for the drop;*
- (3) *whether the Government, being the majority shareholder of HKD, has established any mechanism to monitor HKD's setting of prices for admission tickets and concessions; if it has, of the details; if not, the reasons for that; and*
- (4) *given that the reduction in concessions by HKD has aroused discontent among some members of the public, whether the authorities have assessed the resultant impact on the future development of HKD; if they have, of the outcome; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, our reply to the four parts of the question is as follows:

- (1) As an integral part of Hong Kong's tourism infrastructure, the Hong Kong Disneyland (HKDL), apart from its active promotion in overseas and Mainland markets, is also working hard to build a solid local visitor base. Currently, a significant portion of local visitors to the HKDL are "Magic Access" (that is, Annual Pass) members (MA members). In view of this, in the recent ticket price adjustment, the HKDL has introduced a one-year concessionary period (up to 10 November 2015) for MA members, during which they could renew their membership at pre-adjustment prices. Besides, Hong Kong residents enjoy a concessionary period of two months, during which they could purchase one-day and two-day tickets as well as "Magic Access" cards at pre-adjustment prices. In other words, Hong Kong residents could purchase tickets at pre-adjustment prices during typical peak seasons of Christmas and New Year, while existing MA members enjoy a one-year concessionary period for renewal of membership.

In addition, the HKDL has continued to collaborate with the Agency for Volunteer Service and various social service organizations over the past year. It has received tens of thousands of volunteers and the underprivileged through the resort's "Community Involvement Program". Besides, the HKDL has a volunteer team which contributes to the society by providing volunteer services.

- (2) The HKDL has conducted a detailed study for its ticket price adjustment to ensure that the adjustment level is reasonable, and strives to strike a balance between different considerations, such as the financial position of the resort and local visitors' acceptability. To attract local visitors, the HKDL offers special privileges to MA members. MA members enjoy various benefits on merchandise, previews, hotel accommodation, food and beverage, parking, and so on. For example, the HKDL organized an exclusive 40%-off Christmas shopping week for MA members in November. It was well received and has successfully attracted park attendance. In the

coming year, the HKDL will enhance its exclusive offers and provision of previews as well as special festive souvenirs to MA members, including doing away with the terms that MA members are required to stay in a Disney hotel to be eligible for the food and beverage offers on their birthdays. This will allow greater flexibility for MA members to enjoy their benefits. Furthermore, the HKDL will continue to enhance visitor experience and the overall attractiveness of the resort through improvement of services and introduction of new attractions in order to maintain attendance growth.

- (3) The Government has regular liaison with the Hong Kong Disneyland Management Limited (hereinafter referred as "Management Company"). The Government also monitors and gives advice on the operation of the HKDL, which includes advising the Management Company to consider carefully local visitors' acceptability and affordability before adjusting ticket prices, and to improve service quality at the same time so that visitors can enjoy value for money services.

In the review of ticket price, the Management Company has taken into account the Government's advice and introduced ticket price concessions which benefit local visitors.

- (4) In light of the intense competition from other theme parks in the region, the HKDL has to further develop so as to maintain competitiveness. Indeed, the HKDL has planned a series of self-financed development and expansion projects, including the night time parade "Disney Paint the Night" recently launched in October, a series of 10th anniversary programmes in 2015, and a new themed area based on Marvel's Iron Man franchise to be opened by late 2016. In this connection, the HKDL needs to closely monitor its financial position, which includes reviewing the ticket prices from time to time, with a view to maintaining stable and solid business performance as well as cashflow to ensure that sufficient resources are available for its upcoming development projects.

Appointment of New Chief Executive Officer of Airport Authority Hong Kong

18. **MS EMILY LAU** (in Chinese): *President, in June this year, the Board of the Airport Authority Hong Kong (AA) announced the appointment of the new Chief Executive Officer (CEO) for a term of three years with effect from 1 October 2014. It has been reported that the remuneration package of the new CEO is very generous, with his salary plus bonus totalling nearly \$10 million a year. In this connection, will the executive authorities inform this Council whether they know:*

- (1) the criteria adopted by the AA for determining the remuneration package of the new CEO;*
- (2) how the annual salary of the new CEO compares with (i) that of his predecessor and (ii) those of the top executives of other statutory bodies such as the Urban Renewal Authority and the Hong Kong Trade Development Council; if the former is higher, the reasons for that; and*
- (3) whether the AA has included Chinese nationality as one of the recruitment criteria for its CEO; if so, the justifications, and whether this criterion was adopted in previous recruitment exercises for this post?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, our reply to the various parts of the question raised by Ms Emily LAU is as follows:

The pay level of the CEO of the AA was endorsed by the Board of the AA. The appointment of the CEO by the Board of the AA was based on the principle of meritocracy, so that the AA's particular needs could be met. The Board did not lay down any requirements on the nationality of applicants when it conducted the open recruitment of the position of CEO globally.

Work of the AA at present and in future is both complicated and heavy. In addition to managing an international hub airport with continued growth in passenger and cargo volume, the AA has to take forward two largest

infrastructural projects since the current airport commenced operations in 1998, that is, the planning work of the third runway and the North Commercial District on the airport island. The AA, therefore, had to offer suitable remuneration to attract applicants with considerable experience in managing large organizations and with proven leadership capabilities to take up the position of CEO. When determining the remuneration of the new CEO, the AA took into account the local and global market conditions and the important responsibilities that the new CEO had to shoulder in the years to come. The personnel consultant that assisted in the recruitment also considered the pay level of the new CEO reasonable.

In 2013-2014, the basic compensation of the former CEO was around \$4.32 million, while that of the new CEO will be around \$6.12 million per year. The AA adopts performance-related compensation and the Board will determine the new CEO's actual remuneration after assessing his performance at the end of a financial year.

Different statutory bodies, based on their needs and market conditions, recruit their senior executives with suitable pay levels. We do not consider it appropriate to compare their respective employment packages with that of the AA.

Studying History for Appreciation of Archaeological Discoveries

19. **MRS REGINA IP** (in Chinese): *President, prior to the commencement of the construction of the To Kwa Wan Station of the MTR Shatin to Central Link (SCL), an archaeological survey was carried out by archaeologists at the sites concerned, and quite a number of archaeological relics and remnants dating back to Song, Yuan, late Qing and up to Republican periods were excavated. Subsequently, the Secretary for Development pointed out at a media session held on the 20th of last month that the archaeological discoveries included some remnants such as ancient wells, building foundations and relevant structures dating back to the Song and Yuan dynasties. Such archaeological discoveries were significant ones in Hong Kong in recent years and of great historical, archaeological and heritage value, reflecting the historical and social development of Hong Kong. In this connection, will the Government inform this Council:*

- (1) *whether it has assessed if the coverage on the history of Hong Kong under the existing curriculum of the subject of Chinese History at junior secondary level is sufficient to enable secondary students to appreciate the significance of the aforesaid and other archaeological discoveries for understanding Hong Kong's historical and social development; if it has, of the assessment outcome; if not, the reasons for that and whether it will conduct such an assessment;*
- (2) *whether it has assessed if the low number of senior secondary students studying the subject of Chinese History at present will give rise to a situation where young people generally do not have sufficient knowledge base to appreciate the significance of the aforesaid and other archaeological discoveries for understanding Hong Kong's historical and social development; if it has, of the assessment outcome; if not, the reasons for that and whether it will conduct such an assessment; and*
- (3) *whether it knows the trend in the number of undergraduates studying history (including Chinese history and world history) in various tertiary institutions in the past decade; whether it has assessed if the tertiary institutions have provided sufficient resources for the departments concerned to nurture undergraduates in knowing Hong Kong's archaeological work and its heritage conservation?*

SECRETARY FOR EDUCATION (in Chinese): President, the archaeological relics unearthed at the construction sites of the MTR SCL in To Kwa Wan in recent months has once again drawn public attention to the archaeological work of Hong Kong, as well as its history and culture. In the Hong Kong secondary school curriculum, history education is composed of two independent subjects, namely Chinese History and History. This is unique of Hong Kong. With regard to Chinese History, the curriculum content adopts the dynastic chronological approach, which enables students to understand the rise and decline of major dynastic regimes of our country from a macro and holistic perspective, so as to help them master its trend and development. As for History, it studies chronologically the development of local, national, Asian and world history, and

their interrelationship. The two history subjects complement each other, and together they provide students with a comprehensive history education which covers Chinese as well as Western history.

Our reply to the three parts of Mrs Regina IP's question is as follows:

- (1) At junior secondary level, local history is mainly embedded in the History curriculum. Its content includes studying the archaeological finds in Hong Kong, and so on, so that students can understand the life of its inhabitants in different periods and develop a basic understanding of the history and the social development of Hong Kong. In addition, teachers also make use of various community resources in the teaching of the above topics to enrich and deepen students' understanding of the local archaeological finds, to enhance their interest in learning history, and their ability to appreciate historical relics. For example, schools will arrange for students to visit the Lei Cheng Uk Han Tomb, and the traditional walled villages in the New Territories, and so on. The archaeological relics and remnants dating back to Song, Yuan, late Qing and up to Republican periods recently excavated in To Kwa Wan will enrich the information concerning the history and social development of Hong Kong in the respective periods. After the excavation work is completed, collated and displayed, the relevant materials will definitely be included in the history textbooks, and the archaeological sites will become popular places for students to visit.

For Chinese History, its curriculum content continues to focus on the rise and decline of the major dynastic regimes, but the Education Bureau persistently encourages teachers to introduce related and relevant local happenings as supplements when teaching different dynasties, or to bring students to visit the historical monuments in Hong Kong. Through the study of local history, students' interest in learning Chinese history can be enhanced.

Furthermore, the Curriculum Development Council has set up an Ad Hoc Committee in May this year to review the junior secondary curricula of Chinese History and History. It is expected that the committee will come up with short-, medium- and long-term reform

proposals in the middle of next year, to be followed by public consultations. The Ad Hoc Committee will also review issues relating to the design and teaching of local history.

- (2) In the case of senior secondary level, "Local Heritage Studies" is currently an elective module in History. In the Medium-term Review of the New Senior Secondary Academic Structure and Curriculum, it is recommended to incorporate "Local Heritage Studies" into the compulsory part of the curriculum, so that students can understand the coexistence and interaction of Chinese and foreign cultures through the study of local heritages (for example, traditional festivals, archaeology and historical monuments, and so on). It is believed that this recommendation will enhance students' understanding of local history and culture, and its related archeological finds. The curriculum content of senior secondary Chinese History emphasizes the political development of different dynastic regimes, as well as their basic features and trends. Although local history is not part of the curriculum, teachers can, according to the content to be taught and interests of the students, include relevant elements of local history (including archeological finds) to enrich students' learning.
- (3) The number of students admitted to first-year first-degree places of history-related programmes of the University Grants Committee (UGC)-funded institutions and the total cost of these programmes for the academic years between 2004-2005 and 2013-2014 are set out in the Annex.

Under the block grant principle, the UGC-funded institutions are allowed to determine on their own how to make use of the recurrent grants disbursed to them for teaching and research purposes, including providing sufficient resources for history-related departments to support the provision of quality undergraduate education. The actual allocation of funding among different programme categories is an internal matter of institutions within their autonomy.

First-year first-degree intakes and total cost of
UGC-funded undergraduate programmes related to history⁽¹⁾,
2004-2005 to 2013-2014 academic years

	2004- 2005	2005- 2006	2006- 2007	2007- 2008	2008- 2009	2009- 2010	2010- 2011	2011- 2012	2012- 2013 ⁽³⁾	2013- 2014
First-year first-degree student intakes ⁽²⁾	211	195	198	189	192	190	184	187	396	200
Total cost ⁽⁴⁾ (HK\$ million)	104	104	102	104	109	110	109	120	132	143

Notes:

- (1) Programmes related to history (including Chinese history and world history) are determined having regard to the academic programme categories (APCs) of the programmes as reported by the UGC-funded institutions.
- (2) Since some UGC-funded programmes are mapped to more than one APC, student intake figures of these programmes are counted on a pro rata basis under the relevant APC. Thus the student numbers could be in decimal figures. In this case, the relevant figures are rounded to the nearest whole number.
- (3) To tie in with the implementation of the new academic structure, UGC-funded institutions have admitted two cohorts of undergraduate students under the old and new academic structures in the 2012-2013 academic year.
- (4) The total cost is estimated by multiplying the pro rata total student enrolment (including first-year first-degree intakes and students in other study years) of the programmes under the relevant APC with the average student unit cost of UGC-funded undergraduate programmes related to the APC of Humanities.

Antiquities and Monuments Unearthed at Railway Construction Sites

20. **MR JAMES TO** (in Chinese): *President, it is learnt that the discoveries of antiquities and monuments one after another at the works site of the To Kwa Wan (TKW) Station on the MTR Shatin to Central Link (SCL) have caused delays in the railway construction works and incurred additional expenditure. The Government and the MTR Corporation Limited (MTRCL) have to make a decision within a short period of time on the approach to preserve the antiquities and monuments unearthed and the need to revise the station design, and so on. There are comments that in as early as 2008, the Civil Engineering and Development Department (CEDD) carried out an archaeological survey-cum-excavation on that site. Subsequently, the Water Supplies Department also discovered antiquities on that site during the construction of a sewage pump house in 2009. Therefore, the Government knew long time ago*

the possible presence of important antiquities and monuments there. In this connection, will the Government inform this Council:

- (1) as the MTRCL currently undertakes an archaeological excavation only within the works site of the TKW Station on SCL but the distribution area of the relevant antiquities and monuments may fall outside the site, whether the Government has considered dealing with the archaeological work which falls outside the works site; if it has, of its plans; if not, the reasons for that;*
- (2) given that some members of the public have pointed out that the archaeological and excavation work at the works site of the TKW Station on SCL was carried out in a very hasty manner and they did not have adequate information and channels for participating in the discussion on how to preserve the antiquities and monuments, and that there are queries of whether the authorities have made their best efforts in preserving antiquities and monuments, whether the Government will enhance public participation in the archaeological work concerned in future; if it will, in what way; if not, the reasons for that;*
- (3) given that some members of the public have pointed out that the area of the site where relics were excavated is more than twice of that estimated in the environmental impact assessment (EIA) report on SCL, whether the Government has assessed if the report had seriously underestimated the presence of antiquities and monuments in the works site concerned; if the assessment outcome is in the affirmative, of the estimated resultant increase in the project cost for SCL; and*
- (4) given that the construction works of a number of infrastructural projects and railway projects will commence one after another in the coming few years, whether the Government has considered engaging archaeologists itself to conduct archaeological and excavation work at the locations within the works site where antiquities and monuments may be present before handing over such works sites to the contractors, instead of leaving the contractors to make arrangements for such work after they have taken over the works sites, so as not to affect the progress of the works; if it has, of its plans; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Government is committed to strike a balance between development and conservation. My reply to the four parts of Mr TO's question is as follows:

- (1) The archaeological survey completed by the MTRCL only covered the area within the works site of TKW Station. The extent of ancient human settlement may be inferred with reference to the relics discovered and their distribution as well as the alignments of the coastline and estuary in the Song-Yuan Dynasties. In case further works are undertaken within related areas including North Apron Area of the former airport near Prince Edward Road East and the future Sung Wong Toi Park in future, related project proponents will conduct an archaeological survey.
- (2) Notification to the Antiquities Advisory Board (AAB), the public and the District Councils (DCs) has been enhanced since 2012. On one hand, the Antiquities and Monuments Office (AMO) has to report regularly the progress of archaeological projects to the AAB at its meetings, submit the sections relevant to archaeology in the EIA reports to the AAB and upload the same information onto the AAB's website. On the other hand, the AMO will also closely monitor the works of the archaeologist, including providing relevant comments to and discussion with the archaeologist, and conducting site visit, and so on. When receiving the notification of the archaeological discoveries and the preliminary assessment of the heritage value from the archaeologist, the AMO will examine and analyse the related information. When necessary, the AMO will invite other experts to provide their views on the findings. The AMO will report to the AAB before notifying the project proponents and the archaeologist whether the conservation option is agreed. If such archaeological discoveries have important value or arouse public concerns, the AMO will report to the AAB in its special agenda, and arrange the AAB members for site visits.

All reports compiled by the archaeologists upon completion of the archaeological works will be uploaded onto the websites of the AMO. If archaeological discoveries of special archaeological, paleontological or historical interest are found and the reports compiled by the archaeologists are not yet available, the information note circulated to the AAB will be first uploaded onto the AMO's

website for public viewing, and a copy will also be submitted to related DCs for reference.

Besides, regarding the archaeological work and discoveries at the works site of the TKW Station of the SCL, we have also consulted the AAB, the Kowloon City District Council (KCDC) and the Panel on Development of the Legislative Council respectively on these options. Members of the AAB, members of KCDC and some Legislative Council Members and media have conducted site visits to the TKW Station of the SCL separately.

Starting from April this year, the AMO has submitted monthly reports on the progress of the archaeological surveys and discoveries at the works site of the TKW Station of the SCL to the AAB and me. The AMO has also proactively reported the same at the AAB's meetings and arranged site visits for the AAB members. The monthly progress reports have been uploaded to the AMO's website. The AAB's meetings are open to the public and its minutes are available on its website. All completed archaeological reports compiled by the archaeologists have also been uploaded to the AMO's website. Throughout the archaeological excavation, we have been keeping high transparency to let public have sufficient information on the progress of the archaeological works and the discoveries. The public has also expressed their views from time to time. The archaeological excavation was not carried out in a very hasty manner.

- (3) The CEDD commissioned an archaeological consultant to undertake an Archaeological Impact Assessment (AIA) as part of the EIA report on the Kai Tak Development project in 2008. The EIA report was approved by the Director of Environmental Protection after assessment by the Advisory Council on the Environment and making it available for public inspection and comments. In light of the discoveries of the remains of the Lung Tsun Stone Bridge and porcelain shreds of Song Dynasty at two sites of the former North Apron area, the AIA of the EIA report recommended an archaeological survey for the area. The report further indicated that although the underground deposits were destroyed by the levelling of the mountain body of the former Sacred Hill after the Second World War and subsequent construction of a nullah, it still recommended

further archaeological survey for the area surrounding the Sacred Hill (North) before commencing the works there, so as to ascertain the area with archaeological potential at the northern part of the Sacred Hill.

In 2009, the CEDD commissioned an archaeologist to continue the archaeological works. The archaeological survey suggested that there is certain archaeological potential at the Sacred Hill (North), and recommended that a detailed AIA should be carried out before construction of the SCL, so as to ascertain the location of archaeological potential.

On the other hand, Drainage Services Department commissioned an archaeologist in 2009 to carry out an archaeological excavation in connection with the construction of a sewage pump house and the associated sewerage pipes under the Kowloon City sewerage discharge programme. The result of the archaeological excavation suggested that there are traces of human activities dated back to Sung-Yuan period at the eastern part of the Sacred Hill. However, the archaeologist opined that archaeological potential outside the excavation area has to be further ascertained.

In 2011, the MTRCL commissioned another archaeological consultant to carry out AIA. The report also concluded that the mountain body of the Sacred Hill was destroyed during the Second World War and levelled in the 1950s. As such, its archaeological potential was low. Its foothill area was also destroyed by housing developments in the early 20th century. However, the Sacred Hill (North) still had certain archaeological potential and the study therefore recommended that detailed archaeological survey-cum-excavation should be undertaken prior to the construction of the SCL. The AIA also indicated that the alluvial area to the west of the Sacred Hill did not have any archaeological potential.

The abovementioned archaeological reports were compiled by different archaeologists after an integrated analysis of the past history, archaeological information, geology, landforms, on-site archaeological surveys and site observations. Similar conclusion for the extent of the archaeological works at that time was reached

by different experts after detailed analysis, on-site trench investigation and study, as well as research, and so on.

- (4) Under the Environmental Impact Assessment Ordinance (EIAO), project proponents are required to undertake proper evaluation, at the earliest possible stage, of the environmental impacts of development projects and ensure satisfactory implementation of necessary prevention and mitigation measures to protect the environment. The EIAO also has provisions that are related to the protection of archaeological heritage in Hong Kong, including AIA for cultural heritage impact assessment, so as to provide protection for archaeological heritage in Hong Kong.

On the other hand, since 2008, the Government has required the project proponents and relevant works departments of all new capital works projects to examine whether the works projects will affect sites or buildings of historic or archaeological significance. If the answer is in affirmative, a Heritage Impact Assessment would be required and mitigation measures should be formulated, including pre-construction archaeological surveys, to minimize the damage. This would ensure that a suitable balance can be struck between the requirements for development initiated by the Government and heritage conservation, starting from the inception stage of a project.

Under the current mechanism, the archaeological area is decided by the project proponents taking account of the extent of construction works. Project proponents shall also be responsible for the archaeological work, subject to the AMO's supervision. Project proponents can revise the design and/or related works sequence in response to the archaeological discoveries, with a view to tie in with the archaeological work and the discoveries. Therefore, the existing arrangement is considered proper and valid.

Measures for Cooling Down Overheated Property Market and Meeting Public Demand for Housing

21. **DR LAM TAI-FAI** (in Chinese): *President, to address the overheated property market, the Government has introduced one after another several demand-side management measures (measures), including Special Stamp Duty*

(SSD), Buyer's Stamp Duty (BSD) and doubled ad valorem stamp duty (DSD). Some members of the public have criticized that these measures can only slow down the rise in, but not lower property prices, and they have caused the number of transactions to shrink significantly. With a severe shortage of housing and land supply, these measures not only fail to help members of the public (particularly young people) purchase homes, but have also created grievances in society. They even damage the business environment, hampering the desire of overseas investors to invest in Hong Kong. In this connection, will the Government inform this Council:

- (1) of the respective amounts of revenue brought to the Treasury by the aforesaid measures since their implementation, as well as the respective numbers of transactions involved (broken down into categories of residential and non-residential property in the table below);

	Revenue for the Treasury		Number of transaction	
	Residential property	Non-residential property	Residential property	Non-residential property
SSD				
BSD		(not applicable)		(not applicable)
DSD				

- (2) whether it has plans to return the revenue mentioned in part (1) above to members of the public; if so, of the details; if not, the reasons for that;
- (3) of the respective numbers of monthly transactions of newly completed building units and second-hand building units since the implementation of the aforesaid measures; whether it has assessed if such measures have fulfilled the objectives of promoting the healthy development of the property market and meeting the home ownership needs of members of the public;
- (4) given that the Government has said that it would continue to boost land supply in the short, medium and long-terms, and has identified about 80 additional sites in various districts with the potential to be rezoned for residential use, which could be made available in the

next five years to provide 89 000 units, of the progress of the construction of such units, and whether it has assessed if these units can be put up for sale on schedule;

- (5) apart from the provision of 2 160 Home Ownership Scheme (HOS) units in 2016-2017, whether the authorities will provide more HOS units in the coming few years in response to market demand;*
- (6) whether it has reviewed if the aforesaid measures have dampened the desire of overseas investors to purchase properties in Hong Kong; if it has, of the details; if not, the reasons for that;*
- (7) whether it has reviewed if the aforesaid measures have weakened Hong Kong's competitiveness and prompted investors to invest in other places; if it has, of the details; if not, the reasons for that;*
- (8) given that the authorities have said that they would monitor the situation of the property market and reviewed the measures in a timely manner, to what level the properties prices have dropped will the authorities consider withdrawing or adjusting the aforesaid measures; and*
- (9) of the progress of the Youth Hostel Scheme implemented by the Government; the respective districts in which each project under the Scheme is located and the respective numbers of units to be provided by each project; whether the Government has any specific measures, apart from implementing the Scheme, to help young people purchase their homes; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in the past few years, serious housing demand-supply imbalance, coupled with ultra-low interest rates and abundant liquidity under the loose global monetary environment, have seen the local property market out of line with economic fundamentals, with heightened risk of a bubble. Against such background, the Government has introduced several rounds of measures, including SSD (November 2010 and October 2012), BSD (October 2012) and a DSD (February 2013). These measures aim to address the overheated property market, combat speculative activities, ensure healthy and stable development of the property

market, and accord priority to the home ownership needs of Hong Kong permanent residents (HKPR) in the midst of the present tight housing supply.

In respect of the specific questions asked by Dr LAM Tai-fai, the consolidated reply is as follows:

Demand-side management measures

The monthly statistics of agreements for sale and purchase of residential units for both primary and secondary sales from November 2010 (that is, the month when SSD was introduced) to November 2014 are at Annex. As shown in the figures, the numbers of average monthly transactions were 4 223 in 2013 and 5 254 for the first 11 months of 2014, which were lower than those of 2011 (7 039 on average monthly) and 2012 (6 778 on average monthly)

Under the measures, in acquiring a residential property, a HKPR buyer is exempted from paying BSD, as well as the *ad valorem* stamp duty at the higher rates (that is, Scale one) if he/she is not a beneficial owner of any other residential property in Hong Kong at that time. We consider that such arrangements have effectively addressed the home ownership needs of HKPR.

Increase in property prices has been moderated since the introduction of DSD in February 2013. For the first two months of 2013 (that is, before the introduction of DSD), property prices increased by 2.7% per month on average. From March 2013 to October 2014, the increase was 0.6% per month on average. Besides, stamp duty statistics from the Inland Revenue Department indicate that the number of short-term resale transactions (including confirmor transactions and resale within 24 months) remained at a low level in the third quarter of 2014, with a monthly average of 84 cases, or 1.2% of the total transactions. This represents a sharp decrease from the monthly average of 2 661 cases (or 20% of the total transactions) during January to November 2010 (that is, before the introduction of SSD). Also, purchases of residential property by non-local individuals and non-local companies stood at a monthly average of 126 cases, or only 1.7% of the total transactions, in the third quarter of 2014, markedly below the monthly average of 365 cases (or 4.5% of the total transactions) from January to October 2012 (that is, before the introduction of BSD). It can be seen that measures indeed help stabilize the residential property market, and are effective in combating short-term speculative activities and curbing external demands.

According to the statistics of the Stamp Office, the number of residential property transactions chargeable to SSD and BSD as well as the amount of stamp duty involved in the period since the implementation of the measures (up to November 2014) are tabulated below:

	<i>Number of residential property transactions⁽²⁾</i>	<i>Amount of stamp duty involved (\$million)</i>
SSD ⁽¹⁾	3 838	752
BSD	5 883	10 090

Notes:

- (1) Including figures after introducing SSD for the first time in November 2010 and enhanced SSD in October 2012.
- (2) SSD and BSD are not applicable to non-residential property transactions.

As for DSD, since the Stamp Office is now processing applications for charging *ad valorem* stamp duty at a lower rate (that is, Scale 2) for transactions made during the transitional period (that is, the period between the introduction of DSD on 23 February 2013 and before the gazettal of the relevant Amendment Ordinance on 25 July 2014), the number of transactions chargeable to additional *ad valorem* stamp duty (that is, the difference between *ad valorem* stamp duty calculated at Scale 1 and Scale 2) and the amount of stamp duty involved are not available at this stage.

According to the Government's established principles of public finance management, all revenue from stamp duties, similar to other tax revenue, will be credited to the General Revenue. The Government will then allocate resources to different streams of work and services to ensure that such work and services can cater for various needs of the community. The Government will not rigidly require that a particular item of revenue or a certain proportion of it can only be designated for a particular use. Otherwise, the allocation mechanism of the public financial resources will lose its flexibility.

The policy objective of introducing the measures is to ensure the healthy and stable development of the property market, and this is of paramount importance to the sustainable development of Hong Kong as a whole. While we understand that these measures will cause inconvenience to certain buyers as well as business and industrial enterprises, after balancing various considerations, we consider it necessary to enhance demand-side management under the exceptional circumstances of low interest rate, abundant liquidity and serious demand-supply

imbalance. If the build-up of a property bubble is left unchecked, it would create a greater impact on Hong Kong's economy in the event of a bubble burst, which could bring even more adverse consequences to the business and the investment environment. The measures help protect Hong Kong's macroeconomic and financial stability, which is of benefit to the overall economy of Hong Kong in the long term and serves the best interest of the community as a whole.

The measures are extraordinary measures introduced under exceptional circumstances. We will continue to closely monitor the property market with reference to a series of indicators and review the situation at appropriate time. These indicators include property prices, affordability of the public, transaction volume, supply situation, ratio of mortgage or rental to income, and so on, as well as changes in the local and external economic situations, for example, the pace of adjusting or withdrawing the quantitative easing policies by the United States or European countries, and so on. The Government has also undertaken to review the measures one year after the passage of the relevant Amendment Bills that promulgated the measures and report the outcome to the Legislative Council.

Increasing Land Supply

As stated in the paper to the Legislative Council Panel on Development submitted by the Development Bureau in January 2014, some 150 potential housing sites were identified as having potential for both public and private housing development after the respective statutory plans are amended. If the amendments proceed as planned, the sites could be made available in the coming five years for providing over 210 000 flats, of which 70% are for public housing. The said 150 sites have already included the some 80 housing sites which have potential for housing development as mentioned in the question by Dr LAM Tai-fai.

As at end November 2014, out of the some 150 potential housing sites, statutory planning process have been initiated for 42 sites with an estimated flat yield of 37 800 units, of which 57% are public housing units.

Assistance in Achieving Home Ownership

To establish an effective housing ladder to facilitate low- to middle-income groups (including young people) to achieve their aspirations for home ownership,

provision of Home Ownership Scheme (HOS) flats and other subsidized sale flats is now a standing feature of our housing policy.

Early this year, the Chief Executive announced in his Policy Address that the Government would endeavour to achieve the supply target of about 80 000 subsidized sale flats in the next 10 years. The Hong Kong Housing Authority (HA) will launch the pre-sale of the first batch of 2 160 new HOS flats by the end of this year. These new HOS flats have a pre-sale period of about 24 months. Depending on the construction progress of the next batch of new HOS developments, their estimated completion dates and the progress of the preparation work for the sale of flats, the pre-sale of the second batch of new HOS flats is tentatively scheduled for mid-2016. Subject to the construction progress of respective HOS projects, the HA will determine the number of the second batch of new HOS flats for pre-sale later. In addition, the HA decided in November 2014 to launch another round of Interim Scheme to Extend the HOS Secondary Market to White Form Buyers in the second half of 2015 to allow 2 500 eligible buyers (including young people) to purchase HOS flats with premium not yet paid under the HOS Secondary Market Scheme, so as to meet their home ownership aspirations.

Apart from the HA, the Hong Kong Housing Society (HKHS) also takes part in the construction of subsidized sale flats to provide more home ownership opportunities for the low- to middle-income families and young people. In view of the enthusiastic response to the Greenview Villa project of the HKHS earlier, the Government has earmarked a site in Sha Tin for the HKHS to develop a similar project. The project is expected to provide about 1 000 subsidized sale flats.

Youth Hostel

The Youth Hostel Scheme is co-ordinated by the Home Affairs Bureau. The scale, technical constraints as well as the planning and lands procedures required for each youth hostel project of different participating non-governmental organizations (NGOs) vary. The relevant participating NGOs have been closely liaising with relevant departments, and Home Affairs Bureau has been proactively providing necessary support and assistance. Currently, the project of the Tung Wah Group of Hospitals (TWGHs) in Sheung Wan and the project of the Hong Kong Federation of Youth Groups (HKFYG) in Tai Po are progressing well. Pre-construction consultancy studies for the two projects have been

completed, and various planning, lands and funding application procedures are in the pipeline. As for the other two new projects announced earlier (namely the project of the Hong Kong Association of Youth Development (HKAYD) in Mong Kok and the project of the Hong Kong Girl Guides Association (HKGGA) in Jordan), the pre-construction consultancy studies are being prepared. Upon completion of the relevant steps, Home Affairs Bureau will seek funding approval from the Legislative Council Finance Committee and provide further details of individual projects.

Details of the four projects are set out below:

	<i>District</i>	<i>Number of hostel places</i>
TWGHs	Sheung Wan	306
HKFYG	Tai Po	80
HKAYD	Mong Kok	around 70
HKGGA	Jordon	around 500 to 600
	Total	around 1 000

Meanwhile, the Government has been liaising closely with other interested NGOs according to the policy objectives of the Youth Hostel Scheme, with a view to assisting them to launch more projects.

Annex

Number of agreements for sale and purchase of residential units
(November 2010 to November 2014)

		<i>Primary sales</i>	<i>Secondary sales</i>	<i>Total</i>
2010	Nov	747	12 442	13 189
	Dec	474	8 854	9 328
2011	Jan	296	7 706	8 002
	Feb	486	9 904	10 390
	Mar	1 123	9 333	10 456
	Apr	741	6 894	7 635
	May	2 054	7 627	9 681
	Jun	1 050	7 993	9 043
	Jul	608	4 646	5 254

		<i>Primary sales</i>	<i>Secondary sales</i>	<i>Total</i>
	Aug	884	4 555	5 439
	Sep	231	4 592	4 823
	Oct	822	3 821	4 643
	Nov	1 189	3 606	4 795
	Dec	1 396	2 905	4 301
2012	Jan	879	2 628	3 507
	Feb	581	3 303	3 884
	Mar	1 435	9 923	11 358
	Apr	804	7 413	8 217
	May	1 092	7 257	8 349
	Jun	827	5 059	5 886
	Jul	1 670	4 039	5 709
	Aug	1 397	6 690	8 087
	Sep	644	6 657	7 301
	Oct	2 264	6 450	8 714
	Nov	1 066	5 969	7 035
	Dec	309	2 977	3 286
2013	Jan	632	4 798	5 430
	Feb	1 197	5 110	6 307
	Mar	1 095	3 439	4 534
	Apr	1 045	2 382	3 427
	May	1 328	2 948	4 276
	Jun	135	3 605	3 740
	Jul	211	3 775	3 986
	Aug	546	2 861	3 407
	Sep	871	2 815	3 686
	Oct	773	2 653	3 426
	Nov	1 151	2 639	3 790
	Dec	2 062	2 605	4 667
2014	Jan	1 760	2 728	4 488
	Feb	1 142	2 017	3 159
	Mar	693	2 448	3 141
	Apr	1 136	3 645	4 781
	May	841	4 429	5 270
	Jun	1 375	4 585	5 960
	Jul	2 507	5 285	7 792
	Aug	1 606	4 606	6 212

		<i>Primary sales</i>	<i>Secondary sales</i>	<i>Total</i>
	Sep	1 182	4 776	5 958
	Oct	1 723	4 466	6 189
	Nov	1 119	3 729	4 848

Data source: Land Registry

Regulation of Financial Intermediaries

22. **MR PAUL TSE** (in Chinese): *President, in each of the past several years, I received requests for assistance from quite a number of members of the public who said that some staff members of financial intermediaries, impersonating staff members of banks or financial institutions, tricked them into applying for high interest rate loans from finance companies and charged them expensive intermediary fees. If the victims subsequently refused to sign or wanted to cancel the loan agreements, the staff members of such intermediaries often resorted to threatening means or even detaining them unlawfully in order to make them give in. The press has reported a case in which a victim, who originally had three outstanding debts, namely a first mortgage loan of \$1.87 million and a second mortgage loan of \$200,000 secured on a self-owned residential property, as well as a credit card debt of \$200,000, was persuaded by a financial intermediary selling a "pay-off-debt-and-save-interest plan" to take out a \$2.5 million refinancing package from another bank to repay the aforesaid three outstanding debts totalling \$2.27 million, and was charged a consultation fee of as high as \$100,000 while the refinancing plan was still being processed. The victim ended up with more loss than gain. In this connection, will the Government inform this Council:*

- (1) *whether it knows the current number of financial intermediaries, their modes of operation and the sources of client information;*
- (2) *of the authorities' current policies on regulating the operation of financial intermediaries, and the channels available for members of the public to seek assistance and lodge their complaints about the fees and services of such intermediaries; and*

- (3) *whether it knows the respective numbers of complaints involving the collection of fees by financial intermediaries received by the Police, the Hong Kong Monetary Authority, the Consumer Council (CC) and the relevant regulators in each of the past three years; the follow-up actions taken for such complaints; the number and type of convicted cases; and among such complaints, whether there were any cases involving collaborations between financial intermediaries and accountancy firms or law firms in touting loan-takers for subsequent profit-sharing; if there were, of the details?*

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

- (1) and (2)

Under the Money Lenders Ordinance (MLO) (Cap. 163), money lender's licences are granted by the Licensing Court. The Registrar of Money Lenders (that is, the Registrar of Companies) 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. The Hong Kong Police Force (HKPF) is responsible for the enforcement work of the MLO which includes, *inter alia*, investigation of complaints against money lenders.

According to section 29(10) of the MLO, a money lender (or his partner, employer or employee), his principal, his agent, as well as any person acting for or in collusion with the money lender shall not demand any reward from a borrower (or intending borrower) for procuring, negotiating or obtaining any loan. Offenders are liable to a fine of \$100,000 and to imprisonment for two years. Section 30(1) of the MLO also stipulates that a person shall not, by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induce or attempt to induce any person to borrow money from a money lender. Offenders are liable to a fine of \$10,000 and six months' imprisonment.

Moreover, under the Trade Descriptions Ordinance (TDO) (Cap. 362), traders supplying services⁽¹⁾ (including, *inter alia*, money lenders and traders supplying intermediation services) commit an offence if they engage in a commercial practice prohibited by that Ordinance, such as "false trade descriptions" or "misleading omissions". The maximum sentence is a fine of \$500,000 and five years' imprisonment.

For suspected breaches of the MLO, members of the public may lodge a complaint with the HKPF or the Companies Registry (CR). They may also report suspected contraventions of the TDO to the Customs and Excise Department (C&ED).

The Government and related organizations have been reminding the public through different means of the points to note when taking out loans. For instance, the Police publicize successful enforcement operations and prosecutions against unscrupulous money-lending practices so as to raise public awareness. In case of suspected unscrupulous business practices by licensed money lenders, the Police will take appropriate enforcement action, having regard to the individual circumstances of each case and the evidence obtained. Besides, the Hong Kong Monetary Authority, the Investor Education Centre (IEC) and the CC have held various public educational activities to remind the public of the need to pay close attention to the relevant terms and conditions, including those concerning fees and charges, before entering into any loan agreement or financial contract. The IEC has also made use of educational publications, websites and outreach seminars to enhance public awareness of the factors to be considered before making any loan decisions.

The Administration does not have any statistics on the number of financial intermediaries nor the details of their sources of client information.

- (3) The numbers of complaints lodged with the CR, the C&ED and the CC regarding financial intermediation services over the past three years (from January 2012 to November 2014) are set out at Annex.

(1) The TDO does not apply to the sale, supply and provision of goods or services governed by the Insurance Companies Ordinance (Cap. 41), the Banking Ordinance (Cap. 155), the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and the Securities and Futures Ordinance (Cap. 571).

These departments/organizations have not further categorized such complaint cases by their nature or whether they are related to accountancy firms or law firms. Of the complaints that involved suspected breaches of the MLO or other criminal offences, the CR, the C&ED and the CC have referred such cases to the Police for follow-up. On the other hand, among the complaints received by the C&ED, some have been found upon review not in breach of the TDO while the others have been withdrawn by the complainants, and therefore there has not been any prosecution case so far. The CC has endeavoured to resolve the complaints received by means such as mediation, or advised the complainants to pursue through other dispute resolution means. Apart from the above, the Police handled 111 cases of loans-related offences from January 2012 to June 2014. Separately, during the same period, the Police has taken a total of 35 prosecutions against breaches of the MLO, resulting in 19 cases of successful conviction. The relevant authorities have not further categorized such cases by whether they involve financial intermediation services.

Annex

Numbers of complaints lodged with the CR,
the C&ED and the CC regarding financial intermediation services^{Note}

<i>Year</i>	<i>CR</i>	<i>C&ED</i>	<i>CC</i>
2012	2	-	9
2013	2	10	38
2014 (up to November)	2	34	71

Notes:

According to the Hong Kong Monetary Authority, they have not received any complaints against financial intermediation services during these three years.

The Police do not maintain statistics on the number of complaints against financial intermediation services.

The amended TDO covering services provided by traders came into effect from 19 July 2013. The statistics provided by the C&ED refer to the complaints received since that date.

BILLS**First Reading of Bills**

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

STAMP DUTY (AMENDMENT) BILL 2014

CLERK (in Cantonese): Stamp Duty (Amendment) Bill 2014.

Bill 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

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

STAMP DUTY (AMENDMENT) BILL 2014

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I move the Second Reading of the Stamp Duty (Amendment) Bill 2014 (the Bill).

The Bill seeks to implement the stamp duty waiver for the transfer of shares or units of all exchange traded funds (ETFs) as proposed in the 2014-2015 Budget.

The ETF sector is one of the key components of the asset management industry worldwide. It has been growing rapidly. In Hong Kong, ETFs are open-ended collective investment schemes the shares or units of which are listed or traded on the Stock Exchange of Hong Kong. ETFs seek to achieve a stated investment objective by investing in a portfolio of assets, so as to enable investors to diversify their investments by giving investors an exposure to an asset class or market segment.

A supportive tax environment is an important factor that an ETF issuer would take into account in its decision to domicile or list an ETF in a particular place. With further integration of the financial markets in Asia, we have, since 2010, included ETFs that track indices comprising not more than 40% of Hong Kong stocks in the scope of the stamp duty remission. The number of ETFs listed in Hong Kong has increased substantially from 69 at end-2010 to 121 as of 30 September 2014, and Hong Kong has become one of the largest ETF markets in the Asia-Pacific region.

However, for those ETFs that do not enjoy the current stamp duty waiver, the buyer and the seller each needs to pay a stamp duty. At present, Hong Kong is the only place among major international financial markets to impose a stamp duty on ETFs. This has come to affect not only the status of Hong Kong as an ETF hub in the region, but also the competitiveness of those ETFs that track indices comprising not more than 40% of Hong Kong stocks. (Appendix 1)

The Government has proposed in the budget for this financial year to waive the stamp duty for the transfer of all ETF shares or units, so that the trading cost of ETFs that track indices comprising not more than 40% of Hong Kong stocks can be reduced as well. (Appendix 1) This will be conducive to promoting the development of Hong Kong's ETF market, and will also level the playing field for all ETFs, irrespective of their portfolios.

The stamp duty for the transfer of ETF shares or units is currently provided for in the Stamp Duty Ordinance. The Bill seeks to amend the Stamp Duty Ordinance for the purpose of implementing a full waiver for the relevant stamp duty.

Deputy President, the implementation of the stamp duty waiver for the transfer of all ETF shares or units is conducive to promoting the development of Hong Kong's ETF market and also fostering Hong Kong's position as an asset management centre and the development of our financial services sector as a whole. This will bring about new businesses for the industry and a greater range of products for investors. I hope the Legislative Council can support the expeditious passage of the Bill.

Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Stamp Duty (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 now resume the Second Reading debate on the Administration of Justice (Miscellaneous Provisions) Bill 2014.

ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) BILL 2014

Resumption of debate on Second Reading which was moved on 7 May 2014

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

MR DENNIS KWOK: Deputy President, in my capacity as Chairman of the Bills Committee on Administration of Justice (Miscellaneous Provisions) Bill 2014, I would like to report on the major deliberations of the Bills Committee.

The Bills Committee has held four meetings with the Administration and the Judiciary Administration to examine the Bill, which seeks to amend various legislation to implement various proposals relating to the administration of justice.

The Bills Committee notes that Part 2 of the Bill amends the definition of "live television link" by replacing the reference to "a closed circuit television system" by "audio-visual facilities in the evidence-taking process for criminal proceedings". Some members have relayed the concern of the Hong Kong Bar Association about the security issue that may arise from replacing the expression "closed circuit television system" by "audio-visual facilities". These members

have suggested that the Judiciary should consider the drafting of the proposed amendment to the effect that the consent of the Criminal Court Users' Committee (the Users' Committee) should be sought before any facilities, regardless of the technology used, could be introduced by the Judiciary in the evidence-taking process.

According to the Judiciary Administration, the Users' Committee is a non-statutory committee. The Judiciary does not consider it appropriate to prescribe in the law the role of this committee relating to the choice of audio-visual facilities. To address members' concern, a Committee stage amendment will be moved to the effect that such facilities should be subject to the approval by the Chief Justice. Administratively, the Judiciary will seek views from the relevant parties, including the Users' Committee and others, for the Chief Justice's consideration before his approval. The Administration has also agreed to introduce Committee stage amendments to address the Bills Committee's concern about the textual inconsistencies between the Chinese version and the English version of the proposed amendments regarding the definition of "live television link" and to refine the drafting of the legislative provisions having regard to members' comments.

The Bills Committee notes that Part 4 of the Bill amends the District Court Ordinance so that the reasons for the verdict may be delivered, either orally or in writing, while the reasons for sentence will continue to be delivered orally before they are reduced to writing. Some members opine that the proposed amendment allowing the District Judge the flexibility to hand down the reasons for verdicts in criminal proceedings in writing direct would prejudice the rights of the litigants. These members also opine that the Judiciary should consider setting out the relevant factors that should be considered by District Judges in deciding the mode of delivery of the reasons for verdicts.

Given members' preference and after careful consideration, the Judiciary has agreed that it will set out by way of a Practice Direction the relevant factors that a District Judge may consider when deciding whether the reasons for the verdict should be delivered orally first or directly in writing.

Some members of the Bills Committee have suggested that a copy of the reasons for the verdict delivered directly in writing should be made available to the public through the Internet. In addition, the reasons for the verdict delivered

orally and then reduced to writing should be disseminated in similar ways as those directly delivered in writing, and by way of making a copy of such reasons to the public through the Internet. The Administration has agreed to move Committee stage amendments to this effect.

The Bills Committee notes that Part 5 of the Bill repeals a section of the Hong Kong Court of Final Appeal Ordinance to abolish the existing as-of-right appeal mechanism for civil causes or matters to the Court of Final Appeal and makes certain consequential amendments thereto. Some members have expressed reservation about the proposed abolition of the as-of-right arrangements for civil appeals. Some members note that if the as-of-right appeal mechanism is to be abolished, leave to appeal to the Court of Final Appeal will only be allowed if, in the opinion of the Court of Appeal or the Court of Final Appeal, the question involved is one which, by reason of its great general or public importance, or otherwise, ought to be submitted to the Court of Final Appeal for decision. These members opine that the factors that may be considered by the Judges under the "or otherwise" provision should be spelt out more clearly under such circumstances.

The Judiciary has advised that in other comparable common law jurisdictions, there is no automatic right of appeal to the highest court. The Judiciary has also examined the relevant cases and summed up that the factors and circumstances under which leave has been granted under the "or otherwise" ground can broadly be grouped into three categories. These include legal error(s) causing grave injustice, relatively important subject matters and miscellaneous matters. The Judiciary has stressed that the decision to grant leave is typically fact-specific. Any categorization of the factors or circumstances under which leave was granted by the court can only be a broad guide. If the Bill is passed, under commencement of the Part 5, all appeals in civil matters to the Court of Final Appeal would be subject to discretionary leave.

Deputy President, next, I would like to give my personal views on the issue concerning the appeal to the Court of Final Appeal.

This Bill raises important issues relating to the administration of justice. These include allowing the use of more advanced audio-visual technologies in the evidence-taking process for criminal proceedings, which we have just touched on.

And on behalf of the legal profession, I am especially grateful for the Administration's acceptance of my suggestion to move a CSA to ensure that the reasons for the verdict for cases in the District Court would be made available to the public through the Internet. I believe this would be of immense help to the legal profession, clients as well as the general public.

Unfortunately, this Bill is not without controversy. In particular, as I have mentioned, the point on the abolition of the as-of-right appeal mechanism has been received with some skepticism. It must be acknowledged that the reservation raised against the proposal is not without merits or logic.

As-of-right civil appeals alleviate the restriction from the existing right of appeal, which is a matter of particular concern to litigants in this jurisdiction. For instance, I note that a number of civil appeals reach the CFA through the as-of-right provision under section 22(1)(a) of the Hong Kong Court of Final Appeal Ordinance. In 2012, out of the 27 civil cases filed in the CFA, six were as-of-right appeals, and of these six cases, two were successful.

The as-of-right appeal mechanism is also consistent with Article 35 of the Basic Law, which provides for the right of access to the courts and judicial remedies. While the Court of Appeal safeguards this right, there is a sentiment that all avenues of legal recourse should be pursued before justice is considered to be served.

Although I am sympathetic with litigants who share this point of view, it must be remembered that limitations of appeal to the CFA served the legitimate purpose of enabling our top court to focus only on judgments which are of particular importance. In fact, not only is there doubt as to whether the as-of-right appeal mechanism founded on the \$1 million monetary threshold can help secure proper and efficient administration of justice, it may even make matters worse for the following reasons.

Number one. The appeal mechanism is objectionable by principle. The \$1 million monetary threshold is an arbitrary figure which establishes an exclusive privilege to appeal. In my view, this suggests, unacceptably, that monetary figures give rise to rights. When the CFA Ordinance was passed in 1995, there was a proposal to repeal the as-of-right mechanism for this very reason. It was not repealed at that time primarily because the then Attorney General claimed that such a move would be a radical departure from the then

existing system of appeals to the Privy Council. As we know, the Hong Kong judiciary has matured significantly since that time and parallel changes are necessary in order to accommodate such developments.

Secondly, the appeal mechanism is strange in our modern judicial system. As-of-right appeals to the highest appellate court are not features in the legal systems of common law jurisdictions that are comparable to Hong Kong. Leave must be obtained for appellate cases to the Australian High Court, to the New Zealand Supreme Court and the United Kingdom Supreme Court. In Canada, leave to appeal has been required in most cases since 1975, while Singapore and Ireland retain as-of-right appeals. It is because their judiciaries do not have an intermediate appellate court. As a matter of fact, the Singapore Court of Appeal has explained that, as a general rule, there should only be one tier of appeal as a matter of right.

Thirdly, this appeal mechanism leads to an ineffective appeals system and also unnecessarily drains judicial resources. For instance, the as-of-right appeal mechanism has repeatedly led to situations where the CFA has to consider and hear unmeritorious appeals. These cases benefit neither the respondents nor the appellants and only serve to increase the legal costs for litigants. More importantly, they lead to delays or possible appeals that are denial of the hearings of meritorious cases. Unmeritorious cases have regularly been held by the judiciary to be a waste of both judicial means and time.

Deputy President, the judiciary has frequently pointed out that the as-of-right appeal mechanism would often give rise to problems in actual practice. Last September, the Chief Justice dismissed an as-of-right appeal, saying in the judgment that if leave to appeal had been required, there was not doubt that such leave would not have been granted for that particular case. He also remarked that this was yet another all-too-common example of an unmeritorious appeal which had reached the CFA by this route. The Chief Justice's criticism echoes the sentiments of other CFA judges such as Justice RIBEIRO, who accurately observes that the role of the CFA is not to let litigants have a third bite of the cherry.

Last but not least, as-of-right appeals create room for an abuse of the process. They make it possible for litigants with more financial resources to bring the case and litigate matters all the way up to the CFA regardless of the merits or the issues involved in the case, just to gamble on the possibility that the

other side, who may be less wealthy or has less resources, would fail to secure enough resources to hire lawyers to argue the case all the way up to the CFA thereby forcing early settlement of cases. Given Hong Kong's current levels of economic inequality, this unfortunately happens way more often than one could imagine.

You can see from these points how as-of-right appeals for civil matters hinder our judicial system, and sometimes it is oppressive to litigants who have won twice in court — first before the Court of First Instance and then before the Court of Appeal. It is equally obvious how the issues give rise to injustice by denying more meritorious if not numerically less significant cases for reaching the CFA. The law should not be more favourable to those with the means to take advantage of the court's procedures. The abolition of the as-of-right appeal mechanism for civil matters is long overdue and the court of last resort should be permitted to conduct affairs befitting to its purpose and serve litigants equally.

As an endnote, I would like to say that many of my colleagues including those within the Civic Party believe that the test for leave to the appeal mechanism of the CFA is excessively straight and should be revisited. However, I am equally of the view that this concern can be addressed without compromising the Bill. A practical remedy is to elaborate on the "or otherwise" ground of leave as per section 22(1)(b) of the existing Ordinance, as opposed to the part of the provision covering leave of matters of great general or public importance. "Or otherwise" is comparatively vague and unclear. The judiciary has come up with the general definition of "or otherwise" as comprising three categories of cases:

- (1) legal errors causing grave injustice or different results;
- (2) relatively important subject matters; and
- (3) miscellaneous matters that are of logical consequence to other court orders.

But much more detailed explanation and jurisprudence is desirable and necessary for the future development of our current judicial appeal system. This is especially clear when one compares with the text adopted in foreign jurisdiction. For instance, neither the High Court of Australia nor the Supreme Court of Canada phrases the grant of appeal in such loose terms as "or otherwise".

In the case of the Australian High Court, the Judiciary Act empowers the High Court to have regard to whether a question of law is required by the final appellate court to resolve differences of opinions between different courts or within one court, or whether the interests of the administration of justice require consideration by the High Court in granting leave. Similarly, in Canada the Supreme Court grants leave if it is of the opinion that by reason of the importance of any issue of law or mixed law and fact involved in that question, one that ought to be decided by the Supreme Court or is, for any other reason, of such a nature or significance as to warrant decision by the Canadian Supreme Court.

Ultimately, the threshold for leave should be mitigated to ensure that litigants are not deprived of access to Hong Kong's highest court of appeal. Reference to foreign legislation can then form the expansion of the "or otherwise" ground of appeal, so as to relax the stringent test presently imposed by the CFA. It is to be hoped that with the passage of this Bill, the judiciary would go on to address the issue in due course, whether in subsequent judgments explaining further the use of the "or otherwise" ground or in expanding the current jurisprudence regarding the grant of the leave to appeal.

Deputy President, these are my personal views on the Bill. I understand that my fellow Members including those in my political party would speak, and perhaps differently, on some of the issues involved in this Bill. These are my views and I ask that this Bill be considered carefully by Members of this legislature for reasons that I have mentioned earlier. Thank you, Deputy President.

MR TANG KA-PIU (in Cantonese): Deputy President, the Administration of Justice (Miscellaneous Provisions) Bill 2014 (the Bill) tabled by the authorities aims at improving court operations. It contains amended measures, with provisions pertaining to various courts and tribunals. As a Member of the labour sector and being its representative, I am naturally concerned about the provisions relating to the operation of the Labour Tribunal. Therefore, I took part in the scrutiny of the Bill and raised questions and opinions in the meetings. In addition, the Panel on Administration of Justice and Legal Services (the Panel) had also conducted an initial consultation. I also put forward my views during the scrutiny period.

Here, I would like to thank the authorities for accepting views of the labour sector. In particular, during the consultation stage, the Panel removed from the Bill an amended provision which restricted information disclosure. That would otherwise have posed a tremendous impact on the unions when they assist workers in fighting for their labour rights and interests and making claims.

Deputy President, as the saying goes, "One never steps through a government office door in one's lifetime". It does not require much money to lodge a claim with the Labour Tribunal. The purpose is not to stymie workers from seeking compensation and justice by resorting to laws and courts. Once a labour dispute occurs, it will take at least six months, if not a year, from the time when the worker asks the Labour Department for assistance to the time when the case is registered with the Labour Tribunal and completion of the hearing. The process involved is very long. Therefore, if the legislation or the legal procedures pertaining to the Labour Tribunal are not proper, for instance, if the legal provisions restrict or discourage the wage earners from seeking assistance from the Labour Tribunal, it does not bode well for the wage earners or the unions. We are also very sensitive to this.

According to figures of the judicial institutions, in 2013, the Labour Tribunal received a total of 4 315 cases, the majority being monetary claims. At present, many grass-roots wage earners will turn to trade unions for assistance when they encounter legal proceedings of the Labour Tribunal and when they attend hearings. They will also seek leave from the adjudicators to be represented in court by the unions or representatives of the trade unions. For cases which the unions assist to handle, documents and contracts relating to the employers or the companies concerned, as well as the executives of the companies, will of course be involved. A simple duty list is an example.

When the union has to ascertain whether a worker's claim is justified, whether it has been lodged in accordance with the legislation concerned, and whether someone has breached the contractual undertaking, the union will naturally seek proof from the colleagues of the worker or consult their opinions. If the amended provision originally proposed by the authorities were adopted, that is, if the amended provision on information disclosure restriction which I mentioned in the beginning of my speech were adopted, they could not use the disclosed documents or information for any purpose other than for the legal procedures pertaining to the Labour Tribunal. Otherwise, they may be legally liable for contempt of court offence. Thus, we are worried that unions will be

rendered unable to assist the workers, and the workers will not dare to seek assistance from the unions. They are concerned whether it will constitute a contempt of court offence if they hand over information to the unions. Although the judge may not hold this view, the employers can immediately complain to the judge, saying that it is in their opinion the workers are in contempt of the Court by handing over information to the unions. As a result, the workers will be deterred. Hence, we are greatly annoyed by this amended provision as originally proposed.

Let me cite another example. When a restaurant employee complains of outstanding wages to the union, since the union is very sensitive to the issue, it will find out if other employees, apart from this worker who is seeking assistance, are also owed wages. The union will also try to understand if the restaurant owner is defaulting on wages due to a cash flow problem, and whether he will go bust at any time, resulting in losses to be suffered by the workers, thus ultimately necessitating the payment of compensation from the Protection of Wages on Insolvency Fund (PWIF). Therefore, we regard it as a limitation on workers and the unions if workers seeking assistance from the Courts are restricted from disclosing information to unions.

The Government heeded our views in the consultation stage of the Panel, and agreed to remove this amended provision which was meant to restrict information disclosure. We welcome this move and appreciate the Government's respect for us. I hereby appeal to the Government that if it intends to put forward the amended provision again in the future, it should first conduct an in-depth and extensive consultation of the labour sector. It should not just circulate its proposal and consult the members of the Labour Advisory Board to see if they have any opposition because there is no way for the members to know what is happening. It is absolutely unacceptable for the Government to say there is no objection when no meetings have been held.

Another part of the Bill is also about the Labour Tribunal, but the Hong Kong Federation of Trade Unions (FTU) and the unions are worried about it. This part stipulates the system for providing security. Under section 30 of the Labour Tribunal Ordinance, the Labour Tribunal has the authority to order the payment of a sum of money into the Tribunal or the giving of security. In fact, some employers are apt to employ financial tactics. When the wage earners make claims, they will transfer and deploy their assets, or even abuse legal procedures to procrastinate the hearing process. Hence, the Government enacted

section 30 to provide that the Labour Tribunal has the authority to order the payment of money into the Tribunal or the giving of security.

Deputy President, this provision seems to be very reasonable as neither the wage earners nor the Courts would like to see the employers flee or transfer their assets while being prosecuted. Even if the Courts ultimately pass a verdict, or the PWIF has eventually to be utilized to foot the bill, thereby involving public money, no purpose will be served. This provision is thus enacted.

The Bill has added some reasons ... In section 30(1), the person who gives security has been amended from "defendant" to "order a party". In other words, even if the case is about an employee making a claim against the employer — we think that the adjudicator will normally ask the employer to give security — the adjudicator can also order the employee or the employer to give security. Therefore, this has aroused our concern.

The reasons added by the Bill include: "the party has disposed of, removed from Hong Kong ... of assets belonging to the party", "the party's conduct otherwise constitutes an abuse of the process", and "the party has ... failed to comply with any award, order or direction". Regarding the issue of the added provision stipulating that the adjudicator can ask the employees to give security, I raised oral and written questions during the scrutiny of the provision, making enquiries with the authorities. Nonetheless, the authorities replied that in the past (that is, before the tabling of the Bill), there had always been cases in which adjudicators asked the employees to give security. If the person concerned has any queries about the provision of security, he can launch a review.

This practice is worrying because there were records showing that adjudicators had ordered wage earners to give security, but the cases concerned might be claims made by the employers against the employees, such as claims for payment in lieu of notice for sudden departure. Now, the Bill proposes to amend "defendant" to "order a party". In this case, the adjudicator can still order the employee to give security, thereby increasing the chance of employees having to give security.

Deputy President, my worry is warranted based on the cases we have received. The FTU has set up labour service centres, and several colleagues will assist the workers who are seeking assistance. They will accompany them when they attend hearings, and will even speak for them during the hearing stage. The

colleagues have relayed to me that in the last two to three years, they have seen an increase in occasions in which the Labour Tribunal has asked employees to give security.

Let me cite an example. The case involves a worker claiming unpaid wages and payment in lieu of notice from the employer to the tune of more than \$100,000. At the beginning of the hearing, the adjudicator handling the case was of the opinion that the chance of the worker winning was slim and thus ordered him to give \$8,000 as security. Eventually, the Tribunal ruled in the worker's favour as the evidence he provided — witness and material evidence — was substantial and strong. The adjudicator passed the verdict in the worker's favour reasonably.

However, from the case in which the worker was not the defendant, we realize that at the moment, the adjudicators enjoy tremendous discretion. They can order any party to give security. Although the provision concerned has stipulated this arrangement, we can tell from the experience of our front-line staff that the adjudicators' discretion is colossal.

We have reservation for the amended provision. At present, the adjudicators have great power when ordering security, and the amended provision concerned has also clearly and specifically listed out certain reasons which we consider are reasonable, such as the delay of proceedings or the transfer of assets. This has given us great confidence. We have the impression that the provision is favourable to wage earners. Nonetheless, when it comes to implementation, various aspects of the provision warrant our worries. That said, having considered that a basket of amendments are included in the Bill, and there have been orders for the employees to give security, we will support the Bill.

Here, I would like to urge the authorities to set up a database for us to know how many employers and employees have been ordered by the Labour Tribunal adjudicators to give security, the amount of money involved and which party they ruled in favour of eventually. We wish the authorities can set up the database to demonstrate to wage earners and the unions that the Bill tabled by the Government can realize what I said at the beginning of my speech, that is, "it does not require much money to lodge a claim with the Labour Tribunal", and therefore giving wage earners confidence to resolve their employment disputes at the Labour Tribunal. In addition, if the Bill is ultimately passed, I am also appealing to and inviting the authorities to engage in in-depth communication

with various labour organizations over the past experience and future direction in relation to the giving of security. They should also come up with guarantees. It is of course my wish that the Chief Secretary can respond to our worries when she makes her reply afterwards.

Deputy President, I support the resumption of the Second Reading of the Bill and its Third Reading. I so submit.

MR MARTIN LIAO (in Cantonese): Deputy President, I approve of the abolition of section 22(1)(a) of the Hong Kong Court of Final Appeal Ordinance (HKCFAO), under which any civil appeal amounting to or of the value of \$1 million or more may lie to the Court as of right¹. After the reform, all civil appeals to the Court of Final Appeal (CFA) would be subject to discretionary leave of the Court of Appeal or the CFA.

Deputy President, after the reunification of Hong Kong in 1997, according to Article 8 of the Basic Law, the laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene the Basic Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region. Consequently, Hong Kong has inherited and carried forward the as-of-right in the appeal system of the Judicial Committee of the Privy Council. With the passage of time, we saw the abolition of the as-of-right in nearly all common law jurisdictions that have close connections with Hong Kong, including Britain, Australia, New Zealand, and most of the cases handled by the High Court of Canada. Currently, Hong Kong still maintains the as-of-right of civil appeals, thus it lags behind the development of major common law jurisdictions and alienates itself from mainstream common law judicial system of the modern era.

However, the abolition of as-of-right is not only out of an attempt to catch up with other common law jurisdictions, there are also legal needs to do so. The existing system links the right of appeal to a financial limit that is subjectively set at HK\$1 million. Such link in effect gives a litigant with a claim of monetary

¹ <<http://www.legco.gov.hk/yr14-15/english/hc/papers/hc20141205cb4-211-e.pdf>> (para 18)

value beyond the threshold limit more rights than other litigants with smaller claims, regardless of the merits of their cases. Appeal cases should be assessed by their merits instead of the monetary value involved. Under the principle of as-of-right, cases with no appeal value will be taken care of by the CFA directly, but many appeal cases laid to the CFA through this channel are short of merits. This practice has seriously lowered the efficiency of our appeal system, leads to procrastination of cases and negation of the integrity of justice, and prevents the Courts from handling other meritable appeal cases, particularly the cases in the area of public law, timely. This abuses the judicial system of Hong Kong and is a substantial waste of public resources.

A point worth our attention is that to raise the financial limit is not an option. It is difficult to set an appropriate financial limit. Moreover, it is very doubtful that a hike in the financial limit can in effect significantly reduce the number of meaningless appeal cases. As elaborated above, my opposition to having a financial limit is founded on my opposition to the link between the right of appeal and the financial limit. A hike in the financial limit is not a solution to address the unreasonable link between the right of appeal and the financial limit.

In addition, abolition of the as-of-right arrangements for civil appeals will be conducive to the effective integration of the civil and criminal appeal mechanisms of the judicial system of Hong Kong. Under the criminal appeal system, the right of appeal totally hinges on the merits of a case and has nothing to do with financial limit.

Deputy President, I therefore approve of abolition of the as-of-right under section 22(1)(a) of the HKCFAO. This is not only based on legal consideration but also related to public interests, and will be conducive to the healthy development of our judicial system and rule of law.

I so submit.

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

(No Member indicated a wish to speak)

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, I must first express my heartfelt gratitude to the Chairman, Mr Dennis KWOK, and members of the Bills Committee on Administration of Justice (Miscellaneous Provisions) Bill 2014 (the Bills Committee) for their efforts in scrutinizing the Administration of Justice (Miscellaneous Provisions) Bill 2014 (the Bill), so that the scrutiny of the Bill can be completed smoothly. The Bills Committee has held four meetings in which detailed and in-depth discussions were conducted on the provisions of the Bill. I hereby thank the Bills Committee for its work, and the views on the Bill expressed to the Bills Committee by stakeholders and interested parties.

The Bill proposed by the Government seeks to implement the Judiciary's proposed legislative amendments to improve the court operations in the following areas:

- (1) appeals in civil causes or matters to the Court of Final Appeal (CFA);
- (2) evidence-taking by live television links for criminal proceedings;
- (3) the mode of delivery of reasons for verdicts in criminal proceedings in the District Court;
- (4) the calculation of qualifying experience for appointment of Permanent Magistrates;
- (5) the operation of the Labour Tribunal; and
- (6) the administration of suitors' funds at various courts/tribunals.

During the scrutiny of the Bill, the Bills Committee is particularly concerned with the Judiciary's proposed abolition of the existing as-of-right appeal mechanism for civil causes or matters. Indeed, the proposal has been focused on in the speeches made a moment ago by Mr Dennis KWOK in both his

capacity as Chairman of the Bills Committee and in his own personal capacity as well as in Mr Martin LIAO's speech, indicating the considerable importance of the issue. I am particularly glad to have heard that despite the alternative views raised in the Bills Committee as reported by Mr Dennis KWOK and the possible reservation of his own political party towards the proposal, Mr KWOK personally agrees with the proposal made by the Government this time. The reasons he has given are basically consistent with the deliberations of the Judiciary. I would like to reiterate the rationale for putting forward the proposal is that the present system is objectionable as a matter of principle. Linking a right to appeal by reference to an arbitrary financial limit means that litigants involved in litigation with a claim of monetary value of \$1 million or beyond, the CFA must take the appeal as an as-of-right, thus in effect giving the litigants concerned more rights than other litigants with smaller claims, regardless of the merits of their cases. This is unfair to litigants seeking judicial justice. The CFA has in many cases seriously criticized the as-of-right system, because this system leads to delay and worst of all, justice being denied to the party who has merits in a case. As pointed out by Mr Dennis KWOK and Mr Martin LIAO, this system has long been abolished in other common law jurisdictions to which Hong Kong has a closer affinity. In these jurisdictions, "leave" must be obtained before appeals can be made to their highest appellate court.

The CFA is the final appellate court in Hong Kong. It does not operate as a second court of appeal on the same basis as the Court of Appeal. After the amendments to the relevant legislation, only the question involved in the appeal is one which by reason of its great general or public importance, or otherwise, ought to be submitted to the CFA for decision. The Judiciary has provided the Bills Committee with information to explain that leave has been granted by the CFA and the CFA either solely under the "or otherwise" ground or in conjunction with other grounds. Therefore, this proposal is not going to do any substantive harm to the right of the appellant.

The Judiciary opines it will be undesirable to spell out in the ordinance the factors that may be considered by the Judges in the granting of leave under the "or otherwise" provision, as this will reduce the flexibility of the CFA in dealing with these applications.

The Bills Committee is also concerned with the security of any audio-visual facilities to be adopted in the evidence-taking process for criminal proceedings. The Judiciary has advised the Bills Committee that it will ensure

that any audio-visual facilities to be used will be equipped with security protection features, it will also seek view from the Criminal Court Users' Committee on the use of the technological equipment concerned. The Judiciary also suggests including a provision to the effect that the facilities used should be subject to the approval by the Chief Justice.

Regarding the mode of delivery of reasons for verdicts in criminal proceedings in the District Court, the Judiciary has accepted the Bills Committee's proposal to provide in the legislation that a copy of the reasons for the verdict delivered directly in writing should also be made available to the public through the Internet, and to provide that the reasons for the verdict delivered orally and then reduced to writing should be disseminated in similar ways as those directly delivered in writing.

Deputy President, just now Mr TANG Ka-piu has expressed concern about the amendment regarding the Labour Tribunal Ordinance in the Bill, and on suitor's funds in particular. According to the existing Labour Tribunal Ordinance, the Labour Tribunal (the Tribunal) has power to order the litigant to give security under certain circumstances. For enhancing the Tribunal's case management powers, an amendment included in the Bill seeks to revise the Labour Tribunal Ordinance to confer general powers to the Tribunal, so that at any time during the process of applying to set aside or reviewing by either party, it may require the other party to give security for the payment of any award or order if the Tribunal considers it just and expedient to do so. The grounds for such requirements include the risk of dissipating the relevant assets of the party concerned, the party abusing the process of the Tribunal or failing to comply with a direction, and so on, of the Tribunal without reasonable excuse.

The relevant amendment proposal is intended to apply to both a claimant and a defendant, and both the employer and the employee can be a claimant or a defendant. For instance, an employer can lodge a claim against an employee for wages in lieu of notice or damage claims arising from the breach of a term of the employment contract. As a claimant, an employee might also be filed with a counterclaim by an employer who is the defendant.

Mr TANG is concerned about whether the amendment is unfair to the employees. I would like to point out that both the employer and the employee can be a claimant and a defendant to the case. We consider it inappropriate to provide in legislation inconsistent treatments to the employer and the employee, it

would be better if more flexibility could be allowed for the Tribunal in deciding the most appropriate arrangement in accordance with the individual circumstances as presented in each case. The financial means of a party to meet an order for security is one of the matters that the Tribunal may have regard to in deciding whether to order security. This arrangement has also gained the support of the Labour Advisory Board.

In his speech, Mr TANG said that he would adopt a wait and see attitude with regard to this amendment but he hoped that the Administration could promise to compile statistics on cases requiring security after the passage of the provision, or to set up a database as he so suggested. He meanwhile hoped that the Administration could seriously consider setting up a review mechanism to allow appeal against an order to give security. As the cases concerned fall onto the duties of the Judiciary, I would refer Mr TANG's suggestions regarding the setting up of a database to the Judiciary for consideration. With regard to the suggestion of setting up a review mechanism, the Judiciary has advised the Bills Committee that like other orders of the Tribunal, an order requiring a party to give security may be reviewed and/or appealed against by the party concerned. The Judiciary considers it unnecessary for the establishment of any separate arbitration arrangement, or a review mechanism as proposed by Mr TANG.

Deputy President, with regard to the comments made by the Bills Committee, the Government has proposed a few amendments to the Bill, in response to the suggestions made by the members and for textual amendments. The amendments concerned have been submitted to the Bills Committee for deliberation and discussion and I am going to move the relevant amendments during the Committee stage.

Deputy President, the amendments raised in the Bill are very important for the improvement of various court-related matters. I implore the Members to support the Bill and the various amendments to be moved by me later. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Administration of Justice (Miscellaneous Provisions) Bill 2014 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Administration of Justice (Miscellaneous Provisions) Bill 2014.

Council went into Committee.

Committee Stage

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

ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) BILL 2014

DEPUTY CHAIRMAN (in Cantonese): Members may refer to Appendix I to the Script for the debate and voting arrangements for the Bill.

I will first deal with the clauses with no amendment. I now propose the question to you and that is: That the following clauses stand part of the Administration of Justice (Miscellaneous Provisions) Bill 2014.

CLERK (in Cantonese): Clauses 1, 2, 4 and 6 to 28.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): Chief Secretary for Administration, do you wish to speak?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy Chairman, I am not going to speak again.

(Mr Alan LEONG indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): Mr Alan LEONG, please speak.

MR ALAN LEONG (in Cantonese): Deputy Chairman, Mr Ronny TONG, who cannot attend the meeting today, has asked me to have his views put down clearly on the record. An appeal where the matter in dispute amounts to \$1 million or more does not require any leave for appeal. After the legislative amendments, however, even appeals where the matter in dispute amounts to \$1 million or more, should be subject to discretionary leave of the Court of Final Appeal (CFA) or the Court of Appeal. Mr TONG and I have reservation about the proposed amendments since the right of appeal is involved. If all appeals where the matter in dispute amounts to \$1 million or more are subject to discretionary leave, we are afraid that unnecessary restrictions will be imposed on the right of appeal enjoyed by the general public at present. As evidenced by past figures on cases for which leave to appeal has been granted by the CFA, it is in fact not easy to obtain leave of court to appeal. Appeals where the matter in dispute amounts to \$1 million or more may definitely lie to the highest court for final challenge and appeal in the past but such appeals are now subject to discretionary leave of court. The amendments have, under objective circumstances, imposed restrictions on those who wish to exercise the right of final appeal. In fact we would like to put the views down on the record of this Council and Deputy Chairman, this is the point which I would like to make.

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

(No Member indicated a wish to speak)

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy Chairman, as I said during the resumption of Second Reading debate just now, the abolition of the existing as-of-right appeal mechanism is an issue of great importance. Since Mr Alan LEONG has spoken on behalf of Mr Ronny TONG for record purpose, I wish to repeat the views of the Government briefly.

The reason for the abolition of the existing as-of-right appeal mechanism is that the present mechanism is objectionable as a matter of principle. Under the present mechanism, litigants involved in litigation in effect have more right than other litigants with smaller claims, thus it will cause inequality to litigants who seek access to justice. I believe Mr Martin LIAO said just now that scrapping the \$1 million threshold and replacing it with another amount should not be an option for us to consider, as the principle is correlated to equality. The Court of Final Appeal (CFA) has strongly criticized the as-of-right appeal mechanism in a number of court cases, claiming that it would delay court hearings of cases with reasonable grounds or it would even bring about injustice. The mechanism is abolished in other common law jurisdiction to which Hong Kong has the closest affinity. Such jurisdiction requires that "leave" be obtained before appeals can be made to their highest appellate court.

After the law is amended, leave to appeal to the CFA will only be heard if the question involved in the appeal is one which, by reason of its great general or public importance, or otherwise, ought to be submitted to the CFA for decision. The Judiciary has provided information to the Bills Committee to explain that the CFA and the Court of Appeal had granted such leave on the "or otherwise" grounds or other relevant grounds alone. For that reason, Members can be reassured that there would be no question of any substantive erosion of the rights of appellants under the proposal.

Deputy Chairman, I beg for Members' support to clauses in the Bill relating to the abolition of the existing as-of-right appeal mechanism. Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): As Members request that clauses 6 to 9 be voted upon separately, clauses 1, 2, 4 and 10 to 28 will be voted upon first.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 2, 4 and 10 to 28 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): I now put the question to you and that is: That clauses 6 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.

(Members raised their hands)

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

CLERK (in Cantonese): Clauses 3 and 5.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy Chairman, I move the amendments to clauses 3 and 5, as set out in the paper circularized to Members.

During the scrutiny of the Administration of Justice (Miscellaneous Provisions) Bill 2014 (the Bill), the Bills Committee on Administration of Justice (Miscellaneous Provisions) Bill 2014 (the Bills Committee) put forth many valuable views. After considering such views, we wish to move several amendments. In the following part of my speech, I will briefly explain the amendment proposals concerning clauses 3 and 5.

Regarding clause 3 of the Bill, we have accepted the Bills Committee's recommendations. We propose to improve the statutory provisions under clause 3 and to standardize the Chinese and English versions.

As for clause 5 of the Bill, we have accepted the Bills Committee's proposal on amending the new section 80 of the District Court Ordinance (Cap. 336) to provide that a copy of the reasons for the verdict delivered directly in writing should be made available to the public through the Internet, and the reasons for the verdict delivered orally and then reduced to writing should be disseminated in similar ways as those directly delivered in writing.

The Bills Committee has been informed of the above amendments and supports them. I implore Members to pass these amendments.

Thank you, Deputy Chairman.

Proposed amendments

Clause 3 (See Annex I)

Clause 5 (See Annex I)

MR DENNIS KWOK (in Cantonese): Deputy Chairman, I thank the Government for taking on board the recommendations of the Bills Committee. Regarding the amendment that all verdicts should be made available to the public through the Internet, why are we, including myself, so concerned about it? The essence and spirit of the rule of law of Hong Kong lie in its openness and transparency. After the delivery of the verdict by the judge, if the public are not given any access or channel to read the verdict, it is tantamount to failing to uphold the spirit of the rule of law.

During the scrutiny of the Bill by the Bills Committee, it came to our knowledge, although we were aware, that it was the current practice for the judiciary to automatically upload most — not all — of the verdicts onto the Internet immediately on the day of their delivery. We found that in most cases, the higher courts, for instance, the High Court, Court of Appeal or Court of Final Appeal, manage to upload the verdicts onto the Internet speedily. Nonetheless, according to our observation, some junior courts, including the District Courts, have different practices — not all verdicts, particularly the verdicts of Magistrates' Courts, would be uploaded onto the Internet speedily. Yet many cases under the jurisdiction of Magistrates' Courts carry great importance. For instance, the sentences or verdicts for cases relating to demonstration, protest, illegal assembly, and so on, are often the focus of attention of the public and media.

This time we deal with the verdicts of District Courts by clearly providing that the verdicts should be uploaded onto the Internet. If there are suitable opportunities in the future, we hope that the Government can consider extending the relevant provision to the verdicts of Magistrates' Courts, or even the judicial verdicts delivered by certain committees, and provide that the relevant verdicts be uploaded onto the Internet in order to uphold the openness and transparency of the rule of law of Hong Kong. I so submit.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): If not, I now call upon the Secretary to speak again.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy Chairman, I will pass Mr Dennis KWOK's recommendations to the judiciary for consideration. Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Chief Secretary for Administration be passed. 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 amendments passed.

CLERK (in Cantonese): Clauses 3 and 5 as amended.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 3 and 5 as amended 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.

CLERK (in Cantonese): New clause 3A

Section 79B amended
(evidence by live television
link).

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy Chairman, I move the Second Reading of new clause 3A. The contents of the amendment have been set out in the paper circularized to Members.

In response to the proposal put forward by the Bills Committee during its scrutiny of the Administration of Justice (Miscellaneous Provisions) Bill 2014, we propose to add clause 3A to provide that any audio-visual facilities to be used in live television links for evidence-taking in criminal proceedings will be subject to the approval of the Chief Justice of the Court of Final Appeal. The Judiciary will make administrative arrangements to consult the Criminal Court Users' Committee on the use of the relevant technological facilities, so as to ensure their safety.

The Bills Committee has been informed of the above new clause and supports it. I implore Members to pass the amendment. Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 3A be read the Second time.

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 new clause 3A be read the Second time. 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.

CLERK (in Cantonese): New clause 3A.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy Chairman, I move that new clause 3A be added to the Bill.

Proposed addition

New clause 3A (See Annex I)

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 3A be added to the Bill.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you as stated. 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.

**ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS)
BILL 2014**

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, the

Administration of Justice (Miscellaneous Provisions) Bill 2014

has passed through Committee with amendments. 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 Administration of Justice (Miscellaneous Provisions) Bill 2014 be read the Third time and do pass.

DEPUTY PRESIDENT (in Cantonese): 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.

(Members raised their hands)

Mr CHAN Chi-chuen rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for five minutes.

DEPUTY PRESIDENT (in Cantonese): Will Members please proceed to vote.

DEPUTY PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Ms Emily LAU, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Prof Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr IP Kwok-him, Mrs Regina IP, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr Gary FAN, Mr MA Fung-kwok, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Miss Alice MAK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, 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 and Mr Tony TSE voted for the motion.

Mr Alan LEONG, Ms Claudia MO and Dr KWOK Ka-ki voted against the motion.

THE DEPUTY PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

THE DEPUTY PRESIDENT announced that there were 49 Members present, 45 were in favour of the motion and three 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): Administration of Justice (Miscellaneous Provisions) Bill 2014.

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We now resume the Second Reading debate on Employment (Amendment) Bill 2014.

EMPLOYMENT (AMENDMENT) BILL 2014

Resumption of debate on Second Reading which was moved on 26 March 2014

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

MR KENNETH LEUNG (in Cantonese): Deputy President, I report on the deliberations of the Bills Committee on Employment (Amendment) Bill 2014 (the Bill) in the capacity of the Chairman of the Bills Committee.

The Bill seeks to amend the Employment Ordinance for the provision of paternity leave of up to three days and paternity leave pay at a daily rate of four fifths of the employee's average daily wages to eligible male employees. The Bills Committee held a total of seven meetings for deliberations of the Bill with the Administration and receiving views from deputations. I will now briefly report on the issues that members of the Bills Committee have particular concerns and varying views.

The majority of members urged the Administration to implement the legislative proposal on paternity leave in order to commensurate with the pace of Hong Kong's socio-economic development and improve employment benefits. Some members expressed concern that many small and medium enterprises (SMEs) are operating their business in a difficult environment, in particular, they are in face of acute manpower shortage problem. Therefore, in their opinion,

employers should be encouraged to provide paternity leave to their male employees on a voluntary basis.

The Administration has advised that the proposal on paternity leave have been endorsed by the Labour Advisory Board (LAB) to ensure that a reasonable balance is struck between the interests of employees and the affordability of employers. The Administration will review the implementation of the enacted legislation one year after its coming into operation and report to LAB.

Most members have pointed out that the proposed three-day statutory paternity leave is barely adequate for working fathers to take care of their newborns and partners. These members suggest that the statutory paternity leave should be extended to seven days, and the employees taking paternity leave should be fully paid so as to further promote family-friendly employment practice. The Committee stage amendments (CSAs) proposed by Dr Helena WONG suggest that the statutory paternity leave should be seven days and the daily rate of paternity leave pay is a sum equivalent to the daily average wages earned by the employee concerned.

Some other members do not support the CSAs on paternity leave arrangement, which has deviated from the consensus of LAB on paternity leave and may procrastinate the implementation of the enacted legislation on paternity leave. The Administration emphasizes that the current legislative proposal on paternity leave is a broad consensus reached by LAB after rounds of serious deliberations, detailed discussions and rigorous lobbying.

Deputy President, on the meeting held on 8 July 2014, the Bills Committee agreed with a majority vote that I would move the two CSAs proposed by Dr Helena WONG on behalf of the Bills Committee. I will report on the relevant deliberations of the Bills Committee when I move these CSAs later on.

Some members are concerned that the Bill seeks to set a minimum entitlement of paternity leave for all employees. Employers are free to decide whether they will offer paternity leave benefit above the statutory minimum entitlement. The Bills Committee has noted that Mr LEE Cheuk-yan will move a CSA to delete the description of "not more than 3 days" in the Bill in a bid to clearly provide that employers must grant three days of paternity leave to eligible employees.

The Bills Committee has noted that the Bill proposes that an eligible male employee who intends to take paternity leave needs to notify his employer at least three months before the expected date of delivery, and he is required to notify the employer two days before the actual day of his taking paternity leave. Some members find the two-day notification period unreasonable, while some other members point out that without the notification requirement, employers would have operational difficulties in releasing their employees for paternity leave upon short notice.

The Administration emphasizes that the two-day advance notice requirement aims at facilitating employers, especially SMEs, in making the necessary manpower arrangements when the employee actually takes leave.

Dr Helena WONG once proposed an amendment to delete the two-day advance notice requirement in the Bill. Deputy President, on the meeting on 8 July 2014, the Bills Committee agreed with six supporting votes and three opposing votes that I would move this amendment on behalf of the Bills Committee. Subsequently, the Administration informed the Bills Committee that after further consultation with the LAB, it decided to move CSAs to the proposed new section 15E(1) for the purpose of substituting the original two-day advance notice requirement with the requirement to notify the employer of the intended date of paternity leave before proceeding on leave. The Bills Committee agreed not to move any CSA to this clause in the light of the additional CSAs to be moved by the Administration.

Members have noted the stipulation in the Bill that for entitlement to paternity leave pay, a male employee must provide his employer with documentary proof in respect of the birth of the child to prove his fatherhood. In addition, some members have expressed concern that the documentary requirements for childbirths outside Hong Kong may give rise to disputes over paternity leave entitlement. In this respect, the Administration has acceded to members' request to issue guidelines on the requirement concerned.

The Bills Committee has had detailed deliberations on whether the Bill should include employment protection to employees in a way similar to maternity protection afforded to pregnant employees under the Employment Ordinance. The Administration has explained that paternity leave is different from maternity leave in that the situation where a female employee who may be hindered by her physical conditions from performing certain work during her pregnancy;

moreover, it is quite difficult for a pregnant female employee to adapt to a new employment. The existing employment protection for a female employee is in essence a form of maternity protection with the aim to safeguard her against dismissal owing to her pregnancy or confinement but not for her taking maternity leave.

The Bills Committee has noted that Mr LEE Cheuk-yan will move a CSA that seeks to afford employment protection to employees who are taking or intend to take paternity leave, and protect them against dismissal from the day when notification is given till the paternity leave is fully taken.

The Bills Committee has had in-depth deliberation on the entitlement to paternity leave, whether an employer can pay wages in lieu of granting paternity leave, whether paternity leave forms part of the notice period in contract termination, and so on. The relevant deliberations are detailed in the report of the Bills Committee. Hence I will not repeat those points here.

Deputy President, the Bills Committee has raised no objection to the resumption of Second Reading debate on the Bill. Furthermore, the Bills Committee has raised no objection to the Administration's proposed CSAs.

Deputy President, below are my personal views on the Bill.

The provision of paternity leave mainly serves the purpose of granting to fathers a kind of paid leave before and after the birth of a new life, so that both the mother and father can share the responsibility of taking care of a new born baby. Taking care of a new born child is not just the responsibility of a mother, it is also the obligation of a father. The provision of paternity leave will help to build up healthy and balanced family relationship, generate positive effects on our society as a whole and address the discriminatory issues relating to family roles.

Deputy President, the legislation on paternity leave in Hong Kong comes far too late. Take a look at our neighbouring countries like Japan and Singapore, and some countries farther away like Australia, New Zealand, Norway, Sweden, Britain and Canada, as well as regions like Macao, over 40 countries and regions in the world have implemented policies on paternity leave one after another. Paternal leave is now a kind of international standard although different regions may have their own practices and criteria. Let us take a look at the provisions on paternity leave of these countries and regions.

The first example is Britain. The employees in Britain are entitled to paternity leave of one to two weeks in general. Under the circumstance that the spouse has returned to work, the paid paternity leave of the husband can be extended to 26 weeks at maximum. The British law also provides that the male employees concerned are entitled to employment protection relating to resumption of work and pay increase, and so on. In other words, they are still entitled to these rights while taking paternity leave.

Singapore gives its employees a week of statutory paid paternity leave. The paternity leave pay is fully borne by the government up to the ceiling of SGD2,550. The relevant legislation is not only applicable to the employees who have no less than three months' continuous service with the employer before the birth of the newborn, self-employed persons who have engaged in the same industry/profession for over three months before the birth of the newborn and suffer from loss in income due to taking paternity leave are also entitled to paternity leave afforded by the Singaporean government. The beneficiaries of this scheme is not limited to employees, self-employed persons and professionals, if they can meet the criteria, even self-employed persons are entitled to take paid paternity leave, and the paternity leave pay will be borne by the government.

On the other hand, even though some countries, such as Australia and Japan, have no clear stipulation on paternity leave in law, they have parental leave/childcare leave instead. The statutory parental leave in Australia has a duration of up to 12 months and is unpaid in nature. The employee concerned can request to further take unpaid parental leave of not more than eight weeks. The parental leave taken by the employee and that taken by his or her spouse must not exceed 24 months in total. In addition, the Australian government provides parental leave pay calculated on the basis of national minimum wage to the major caretakers of newborns or adopted babies for 18 weeks. The working father and his partner (including homosexual partner) are also entitled to two weeks of additional paid leave, and the pay of such leave is calculated on the basis of national minimum wage and will be paid directly to the employee concerned by the government.

Deputy President, in Japan, parental leave starts after the end of maternity leave (that is, eight weeks after the birth of baby) and will last till the baby is one year old. Parental leave pay funded by labour insurance plus the voluntary contribution from employer shall not exceed two thirds of the base salary of the

employee concerned. Moreover, the employee is waived from paying income tax and the premium of labour and social insurance.

Deputy President, having taken a glimpse at the practices of these countries and places, what is the reasonable level of benefit and protection insofar as paternity leave for male employees is concerned? This question has been fervently debated in both society and the Bills Committee, and there are diverging views. We note that the Bill on paternity leave falls behind many countries and we cannot even match with certain developing countries. When it comes to the discussion on the duration of paternity leave or the level of paternity leave pay, we should also consider various local factors, such as social culture, economy, taxation system and the matching of manpower resources. It comes to our attention that according to the Bill currently under scrutiny, paternity leave pay will be borne by employers; the Government does not need to pay a penny. In the long run, I urge the Government to think about a question: Why does the Government refuse to consider bearing the financial burden of paternity leave for male employees when it has over \$700 billion of surplus?

Although the Government now decides to provide paternity leave of three days, as a father, my opinion is that even if the duration of paternity leave is extended to one month, it is still inadequate. The Government has undertaken to review the implementation of the enacted legislation one year after its coming into operation. In my view, the relevant legislation should be constantly reviewed on a regular basis in the future, say for example, regular review should be conducted every two years. I think it is appropriate and necessary to do so due to the changes in employment market and the changes in the matching of manpower resources from time to time. In addition to statutory paternity leave, I would appreciate it if employers can roll out other family-friendly measures like flexible working works or job sharing, which do not necessarily involve legislative process. These measures can provide further support to the employees who are parents of newborns, facilitate them to strike a better balance between family and career and enhance their sense of belonging to the company they serve. In my opinion, in addition to legislating on paternity leave, the Government should also provide tax concession, or even cash allowance, to the parents of babies born in Hong Kong, so that Hong Kong can match other countries in the world in terms of birth rate, competitiveness and manpower resources.

Deputy President, speaking of paternity leave for male employees, I also have strong personal feelings. My two children were born in 1999 and 2004 respectively. Having newborns in the family, I was thrilled, happy on the one hand, and worried and a bit upset on the other. I felt upset because there was no paternity leave for male employees back then. As I recall the two episodes of experience in 1999 and 2004, my wife, who had chosen spontaneous delivery, did not know precisely the timing for her admission to hospital. As I can recall the experience in 1999, my wife was admitted to hospital on a morning in July. Subsequently, as my employer ... Of course, male employees were not entitled to paternity leave in Hong Kong in 1999. My wife was admitted to hospital at 11 o'clock, and I had to report duty as usual. In the afternoon, I hurried to the hospital after getting a phone call from the hospital at about 3.30 pm. In the subsequent a month or two, both the father and mother were terribly strained physically or in other aspects. We did not have much time to sleep every day. Perhaps Dr Kenneth CHAN is experienced with getting up at 3 am to feed the baby and change napkin for it. This kind of life would last three to four months, and the parents can hardly have good, sound sleep until the child is four or five months old. I believe colleagues who have children still have this kind of memories.

When my second child was born in 2004, I was even a bit annoyed. At that time, the company I served had given its employees all over the world the entitlement to paternity leave of five days, but its Hong Kong employees were excluded from such entitlement. Upon my pursuit for an explanation, the reply I got was that in 2004, the Government of Hong Kong had not yet implemented paternity leave for male employees, and it did not encourage companies to have policies on paternity leave, hence the Hong Kong office decided not to give its Hong Kong employees the entitlement to paternity leave. At that time I was furious and had spent a long time on arguing with them. I recalled that I sent my wife to hospital at 4 am early in the morning. As I could take some days off in 2004, I had the opportunity to accompany my wife when she was sent to the delivery room. But I recalled that after the birth of the baby, my mobile phone suddenly rang — it was sometime after 4 pm — as a client wanted to have conversation with me over some business issues. I had no choice but to discuss with that client for an hour in the lobby of the hospital. My view is, if paternity leave for male employees is already an international standard and trend, we should have it implemented in Hong Kong expeditiously.

Later on, I will discuss and express my views on the amendments put forth by Dr Helena WONG, Mr LEE Cheuk-yan and other Members.

Deputy President, I so submit.

MR WONG KWOK-HING (in Cantonese): Deputy President, after nine years of pursuit, today I can finally bring this baby to the Legislative Council for the debate on paternity leave as proposed by the Government in the Employment (Amendment) Bill 2014 (the Bill). This baby is also very happy, grinning from ear to ear. I am very grateful to the Hong Kong Federation of Trade Unions and various men's rights concern groups for having worked with me since the earlier years. We have been advocating for paternity leave for nine years since 2006, and the pursuit has undergone three phases. The process is tough and rough, definitely not an easy one, and is exactly as challenging as bringing up a baby.

Sitting on my left is Mr TANG Ka-piu who carried this baby with me to the petition campaigns back then when he was not yet married. So, during the phase one years, on every Father's Day and Mother's Day, people would see me and the men's rights concern groups staging petition with a number of men and women. During those few years, we collected a lot of information, met with a number of deputies from government departments, such as the Labour and Welfare Bureau, the Food and Health Bureau, the Labour Department, the Department of Health, and the Social Welfare Department, and so on. It was the time when Mr TUNG Chee-hwa served as Chief Executive of the first term Hong Kong SAR Government. At that time, it was groundbreaking for us to advocate for paternity leave, as few people had discussed about it and the society had yet to reach a mainstream opinion or consensus over this new concept. Therefore, we asked to meet the Chairperson of the Equal Opportunities Commission. The Chairperson we met back then was Mr Raymond TANG, then we met the next Chairperson and now we have met the third one. We asked again and again why maternity leave was enjoyed by women but no paternity leave was made available to men.

We pointed out that when the wife of an employee was going to deliver, the couple as parents would like to see personally the birth of the baby and to take care of it; they as spouses would like to provide each other with mutual support. Hence, paternity leave meets the need of not just the parents but also the children. As a result of our efforts made incessantly during those five years in the first

phase, various social sectors were finally making gradual responses to such a need. We noted in particular that the employers of many professions, enterprises or organizations considered this proposal of ours constructive and agreed to grant paternity leave to their male employees even before the enactment of law. This phase lasted about five years.

During the tenure when Mr Donald TSANG was made and later re-elected as Chief Executive, our pursuit for paternity leave proceeded to the second phase. What was this second phase? After Mr TSANG had assumed office and when he was running for re-election, we lobbied various government departments and even Mr Donald TSANG directly, campaigning for the need of family-friendly policy and calling for the introduction of paternity leave. I remembered that on 11 November 2011, I brought this baby to the Legislative Council and moved a motion which urged the Government to pay heed to men's rights and specifically on the necessity of introducing paternity leave.

I am very grateful for the support from various Members and parties back then and thanks to them my motion was passed. The passage of the motion had triggered this Council and various social sectors to show great concern over this issue and prompted the Government to recognize for the first time the need to introduce family-friendly policy. The relevant proposal was made during this phase. In this phase, with the efforts made by us and our fellow co-workers — I remembered that Mr TANG Ka-piu was a new father at that time, right? In our petition parade, we did not just bring this baby, Mr TANG Ka-piu also brought his new-born daughter to petition with us. From a baby cuddled in arms ... the most impressive scene was that Mr TANG Ka-piu once gave her daughter a ride on his shoulders. I witnessed that he started fighting with us since he was married and gradually his daughter was old enough to have a ride on his shoulders. These all happened in the second phase and it was a bumpy road.

Though the road was bumpy, we persisted and finally succeeded in getting the then Chief Executive Mr Donald TSANG to agree to try a five-day paternity leave among the civil servants. The implementation of the five-day paternity leave in the Civil Service subsequently yielded good results. Government statistics show that in the two years from 1 April 2012 to 31 March 2014, a total of 5 524 government employees enjoyed paternity leave, and among them, 5 281 were civil servants and 243 were contract staff. After the trial conducted by the Government, we saw that the employers ... of course, people would say that the

trial in the Government has little impact on the private market, but it did boost the morale and popularize the "family-friendly" concept among the general public. The number of enterprises and employers which voluntarily provided paternity leave has increased. I remembered that in those two years, we came up with a new initiative. In the period around Father's Day or Mother's Day each year, we visited enterprises which provided paternity leave voluntarily and hosted award conferring ceremonies to thank them, encourage them and commend on their good deeds.

After the Government had implemented paternity leave for some time, we brought the campaign to the third phase and encouraged the Government to introduce statutory paternity leave. As the trial among civil servants has been successful, should we make paternity leave universally available to all employees throughout Hong Kong too? We saw that when the current term Chief Executive Mr LEUNG Chun-ying was about to take helm, the new term Government was willing to carry on with the work inherited from the last term and lobby the employers on paternity leave in the hope that they would support and implement the leave.

We all know that in order to improve the Employment Ordinance, the practice we have adopted for decades is to let the employers and the employees negotiate through the Labour Advisory Board (LAB) — perhaps I can put it this way: it is a "negotiation platform" for improving employer-employee relationship — it naturally requires an extended period of hard work by the LAB, as different interests are involved in the negotiation. Employer representatives and employee representatives have had an intense negotiation on this issue at the LAB and even "tooth blood" was seen in the process. Finally in November 2011, the LAB agreed to introduce statutory paid paternity leave, which was three paternity leave days with pay at four fifths of the employee's wage, according to the agreement. Needless to say, we find this inadequate as we would like to have seven paternity leave days, or at least on a par with the civil servants. But then, as the LAB have managed to secure this breakthrough agreement under such a challenging negotiation, we hold that due respect should be paid to this conclusion reached through this negotiation of a collective nature. Under such circumstances, the Government finally proposed a revision of the policy in the current Legislative Session, with the proposal undergoing the legislative process and eventually comes to us today.

Deputy President, though a three-day paternity leave is indeed not the best solution, it is undeniably a breakthrough. The Hong Kong Federation of Trade Unions earnestly hope that with the implementation of the present breakthrough, further improvement can be made upon this foundation. Hence, we strongly urge the Government to promise that a review will be conducted one year after enactment of the Bill today so that all Hong Kong employees can receive this "Christmas present" for the time being.

Fellow Members, the negotiation at the LAB was no easy matter. The employee representatives of the LAB were elected by trade unions. They crossed swords in heated debates with the employer representatives at the LAB and made each small progress with much difficulty. In fact, we all know that the enhancement of employees' rights and welfare benefits cannot be achieved in one day. We can only "reap four taels of gains after another four and accumulate small successes to a big triumph".

Looking back at the struggle for statutory minimum wage, we can see that the process, which started before the unification and came into being a few years ago, took almost 20 years. Let us look at the pursuit for the legislative amendment to criminalize defaulted payment of wages. The Employment Ordinance, which was enacted in 1968, was finally amended after 40-odd years at the last Legislative Session to criminalize the offence. Hence, it is indeed a breakthrough for paternity leave to have progressed from "zero" to "three" now. I therefore appeal to Members to support the motion moved by the Government today.

Deputy President, in this final minute, I would like to take the opportunity to thank the LAB for the efforts it has made. I would also like to inform the President with a tint of sentimentality that one of the employee representatives, Mr CHUNG Kwok-sing of the Hong Kong Civil Servants General Union, has unfortunately left us on the 4th this month because of cancer. He worked hard during his term at the LAB despite his medical conditions, fought hard for our benefits but was unable to see the passage of the Bill today. I sincerely hope that the Bill can be passed today so that I will be able to tell him in front of his grave that (*The buzzer sounded*) ...

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

DR HELENA WONG (in Cantonese): Deputy President, we have all heard the very eloquent speech delivered by Mr WONG Kwok-hing just now. With a baby in his arms, he said that the baby would smile with delight today because we were about to legislate for paternity leave.

However, Deputy President, after listening to the history of our fighting for paternity leave and Mr WONG Kwok-hing's appeal for our support of the proposal to grant three days' paternity leave, the baby will be crying instead, thinking that it is really absurd for its daddy to have just three days' leave to take care of the mother and the child. I believe the baby will definitely burst into heart-breaking tears.

Deputy President, paternity leave is a measure under the family-friendly policy. The Democratic Party has all along been very supportive of formulating a family-friendly policy and legislating timely for paternity leave. A number of signature campaigns and petitions have also been staged at district level for the purpose and the Secretary for Labour and Welfare has been aware of our position of urging for the introduction of legislation on paternity leave.

During deliberations on Employment (Amendment) Bill 2014 (the Bill) at the meetings of the Bills Committee formed to study the Bill, I have proposed three amendments to the Bill introduced by the Administration. The first amendment seeks to extend the proposed duration of paternity leave from three days to seven days. The second amendment is proposed to grant full pay to employees taking paternity leave instead of pitching the rate of pay at four fifths of their average daily wages. The aim of the third amendment is to dispense with the two-day advance notice requirement for the actual day of taking paternity leave if an employee has notified his employer of the intention to take paternity leave three months before the intended date of the leave.

It was the original stance of the Government not to accept any amendment at all since, as pointed out by Mr WONG Kwok-hing just now, the proposals set out in the Bill have been reached by the Labour Advisory Board (LAB) after painstaking and prolonged deliberations for years, and discussions would have to start all over again should any amendment be proposed to the Bill. These are

nothing more than empty talks because as we all know, the Government has decided after the summer recess to take on board the third suggestion made by me as mentioned above and move amendments to that effect. I will explain in detail later the arrangement under which an employee will not be required to give two-day advance notice for the actual day of taking paternity leave if he has notified his employer of the intention to take paternity leave three months before the intended date of the leave.

I welcome the Government's decision to do so. However, as it has not accepted the other two amendments I proposed, Mr Kenneth LEUNG, Chairman of the Bills Committee, will move the two relevant amendments on behalf of the Bills Committee later.

Deputy President, what is meant by "paternity leave" (侍產假)? On first hearing, the term may look new for some of us but we all understand now the purpose for granting paternity leave. Female employees have been granted maternity leave for childbirth but male employees are not entitled to any leave in respect of the birth of a child. People tend to think that male employees do not need to take leave for the birth of a child since they are not required to go through the physical process of bearing and giving birth to a child. However, it is actually a world trend to implement a family-friendly policy. Paternity leave is special leave granted to male employees by employers to cater for their family needs. It is normally granted before and after the birth of a child of the employee taking the leave so that he may put his work aside for the time being to keep company with his spouse and the new born baby and take good care of them.

Is there any merit in granting paternity leave? Of course there is, or else the measure will not be implemented in so many countries and places one after another. Deputy President, the Labour Department (LD) has in fact been very supportive of the implementation of paternity leave. Not only has paternity leave been granted by the Government to its male employees, information leaflets have been published to promote the merits of granting paternity leave. As a matter of fact, employers will also be benefited if we legislate for paternity leave and have it implemented across the board in Hong Kong instead of confining the scope of the measure to just the civil service system. In addition to the benefits brought to male employees taking the leave, the measure would also serve their spouse, their child and even the whole family well.

What benefits will employees gain from the measure? The Government has always said that it is a very happy thing to have a new member in a family and a father-to-be would definitely like to keep company with his wife during this most important moment for the family to assist in taking care of the new born baby and share the bittersweet moments of looking after the child. A gentleman has once shared with me that when his wife was about to give birth to their first child, he was so nervous that it was simply impossible for him to concentrate on his work and he could just kept on checking his mobile phone. He was at a loss as to what to do since having a new member in the family was a great event but he has never experienced such a thing in his life.

A working father would inevitably be torn between work and family and put under immense pressure if he has to take care of his spouse and the newborn on the one hand and attend to his duties at work on the other. Even though he is made to report duty as usual with no leave granted, he would only work with his thoughts elsewhere. Thus, if leave could be granted to him by his employers during such important moments so that he could stay at home with his family and take care of them wholeheartedly, he would resume duty and concentrate on his work after fulfilling his duties as a father and a husband. Under such circumstances, work and family would not be mutually exclusive for male employees.

We have always emphasized the importance of "work-life balance". It is not our wish to see male employees in Hong Kong working all day without family life and other activities since this is totally abnormal and inhumane, and it is not our wish either to see them being turned into working machines. Granting leave to them during the period is a humanized arrangement, which can serve the dual purposes of relieving the pressure of these male employees and their family as well as promoting family harmony.

Apart from benefiting employees — of course not only working fathers but their spouse and the whole family too, as I have elaborated just now — will employers be benefited from the implementation of paternity leave? Should employers focus their attention only on the financial impact of the measure? Some employers may tend to think that employees are paid to do the job. If they are allowed to take a few days off, no one will be doing the job for them. Employers will also wonder if they should be responsible for the paternity leave pay, if they can pay at a daily rate of four fifths of the employee's wages or even be exempted from the pay; and if the duration of the leave can be shortened.

They may consider it a perfect thing if they are not required to pay for the paternity leave; or consider it hard enough for them to pay for a three days' paternity leave, let alone granting the leave on full pay. In fact, those who understand the true meaning of running a business would not look at the matter this way. I believe Mr James TIEN may start to wonder if it is too mean to have the rate of paternity leave pay pitched at four fifths of the employee's wages since only a slight difference in the amount of money is involved when compared with granting the leave on full pay. As the issue in question is just the pay of a few days' leave, Mr TIEN may wonder if it is really that much of a burden for him.

If employees are not granted paternity leave, they will have no alternative but to take vacation leave and if this is not possible, they would have to keep in contact with their spouse via FaceTime while at work to keep abreast of what is going on at home. Under such circumstances, though they are physically in the office, their thoughts are elsewhere, making it impossible for them to concentrate on their work. It will only incur a bigger loss to their employers if a wrong decision is made in the interim. Therefore, I do not think employers should consider the measure merely from the perspective of its financial impact since they will eventually be benefited as employees taking paternity leave would be able to take care of their family with full attention during their leave and would subsequently resume duty to plunge themselves into work again attentively.

As far as employees are concerned, legislate for the provision of a seven-day paternity leave would be considered a very thoughtful move. As a matter of fact, such advantages are not my personal creation but have also been included in the flyers published by the LD to convince employers of the merits of granting paternity leave. The measure is considered beneficial to employers as well since employees taking paternity leave would resume duty with a higher morale after they have taken a short break of one week. As those granting paternity leave will be regarded as caring employers, the measure will also help to nurture a greater sense of belonging among employees and thereby retain talents. Thus, the implementation of paternity leave will actually do good to employers.

Mr WONG Kwok-hing has said just now that LAB had had some vigorous discussions on the issue but we must bear in mind that among the six employees' representatives and the six employers' representatives in LAB, all of the former have expressed their support for the proposal to legislate for paternity leave and agreed that the duration of the leave should be more than three days. Instead of a three-day paternity leave, both Mr WONG Kwok-hing and the Hong Kong Federation of Trade Unions (FTU) have all along been urging in their political

platforms for the implementation of a paternity leave of seven days. Furthermore, not all of the representatives of the employers in LAB are against the implementation of paternity leave and there are dissenting views on the issue. Among the six employers' representatives, three have expressed support and the other three have raised objection to the formulation of paternity leave arrangements and the final results are nine voted for and three voted against the proposal. Such being the case, the Commissioner for Labour has decided to introduce the proposal to implement paternity leave into the Legislative Council for discussion.

Deputy President, we should not be misled into thinking that all employers in the commercial sector are against the proposal to implement paternity leave. In fact, quite a number of companies have adopted a forward-looking approach in their corporate plan to retain talents and have implemented paternity leave under their personnel policies. Deputy President, we are going to legislate for paternity leave today and it is of course my hope that all Members present would support the two amendments to be moved by the Bills Committee so that seven-day paternity leave on full pay would be granted to male employees.

Deputy President, paternity leave is a basic employees' benefit and similar arrangements can actually be found in a lot of countries, developed and developing countries alike. According to a survey conducted by an international labour organization, legislation has already been put in place in 78 of the 167 countries in the world in 2013 to implement paternity leave. In some Northern European countries which Members of this Council have visited earlier, male employees are normally entitled to a paternity leave of one to two weeks, in addition to the so-called "parental leave" of an even longer duration. As for Asian countries, one-week paternity leave has been granted with the assistance of government subsidy in Singapore while the Philippines ...

(A quorum was not present in the Chamber)

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

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

DEPUTY PRESIDENT (in Cantonese): Dr Helena WONG, please continue with your speech.

DR HELENA WONG (in Cantonese): Deputy President, I have mentioned just now that it is the world trend to legislate for paternity leave. While a paternity leave of 14 days has been implemented in the United Kingdom, a seven-day paternity leave is granted to male employees of Singapore and the Philippines in Asia and those in Korea may take five days' leave. To my knowledge, discussions have been held by LAB on practices adopted in other countries in respect of paternity leave and according to the representatives of the employees, they once wished to urge for the implementation of a five-day paternity leave but due to the fact that only three days of paid paternity leave was granted in a neighbouring place, they chose to yield to the insistence of three employers' representatives and accept the implementation of a three-day paternity leave.

The "neighbouring place" in question is probably Taiwan. Nevertheless, Deputy President, I think Hong Kong should not overlook the latest developments in Taiwan, which suggest that amendments to the Act of Gender Equality in Employment have already been read the third time and passed by the Legislative Yuan on the 21st of last month. Under the Act as amended, the duration of paternity leave provided in Taiwan has been revised from three days to five days so that male employees may, together with the two rest days entitled per week, take a leave of up to nine days. Deputy President, if the practice adopted in this neighbouring place has been used previously by the Government and the FTU as an example to illustrate the reasonableness of granting a three-day paternity leave, I cannot help but ask for the reason why they have to stick to an outdated practice when one step further has actually been taken in the neighbouring place to provide its employees with a better protection.

Deputy President, the amendments proposed today seek to lengthen the duration of paternity leave from three days to seven days and it is hoped that the new arrangement can be implemented to echo the views expressed by the then Chief Executive Donald TSANG in the 2011-2012 Policy Address that "Many developed countries provide paid paternity leave for employees to promote child-bearing and family-friendly practices". In fact, the Government has already taken the lead to implement five-day paternity leave on full pay in the civil service system since 1 April 2012. We welcome the current legislative exercise undertaken for the purpose of granting paternity leave to all male

employees outside the Civil Service but is it reasonable to use the duration of three days as a starting point? Amendments are proposed by the Bills Committee since we do not consider it reasonable. Although the Government has argued that the arrangement has been formulated in the light of the relevant practice adopted in Taiwan, a neighbouring place of Hong Kong, amendments were introduced by the Taiwan authorities on the 21st of last month to enhance the practice. Besides, it is also unreasonable to have the rate of paternity leave pay pitched at four fifths of the employee's wages and I will discuss the issue in detail later.

Under the five-day week arrangement, civil servants who are eligible for five days of paternity leave may be off for a maximum of nine days, including Saturdays and Sundays. How come it is considered adequate for male employees of Hong Kong to have a paternity leave of only three days? Deputy President, we consider it totally unreasonable to use the duration of three days as a starting point. Our efforts will surely be in vain if, after years of fighting for paternity leave, a package inferior to both the prevailing standard and the practice adopted in neighbouring places is finally implemented to give effect to the measure. Therefore, on seeing Mr WONG Kwok-hing, the baby will surely burst into tears.

A telephone survey with a total of 829 successful respondents has been conducted by the Democratic Party on paternity leave from 28 April to 4 May. Among the respondents, 787 supported the granting of paternity leave on full pay and 717 considered it inadequate to grant a paternity leave of three days. Over half of the respondents who considered a three-day paternity leave inadequate have indicated that the duration should be pitched at seven days or above. Deputy President, it is clearly stated in the political platform of the Democratic Party that we support the granting of a 14-day paternity leave and in this connection, our stance now represents the biggest compromise that could be made. Having conducted the public opinion survey as mentioned above and considered the latest developments in a neighbouring place (that is, Taiwan), amendments are proposed to provide for a paternity leave of seven days and Members are urged to give us their support.

Deputy President, progress has already been made because I believe that among the Members present today, only a very few of us are completely against the idea of legislating for paternity leave. However, the issue in dispute is to formulate a paternity leave arrangement that would not only meet local conditions

and employees' needs but also be helpful in promoting child-bearing and family-friendly practices. Thus, it is our opinion that it would be more in line with the public aspiration to have the proposed duration of paternity leave revised from three days to seven days because under the five-day week arrangement, civil servants who are entitled to a paternity leave of five days may be off for seven or even nine days. The general working public will be let down if we accept the proposal of granting a three-day paternity leave.

I wish those from the labour sector and the business circle as well as Members would support the two amendments we propose. Thank you.

MR JAMES TIEN (in Cantonese): Deputy President, just two or three Members have delivered their speeches but I have already noted a remarkable phenomenon. Regarding the duration of paternity leave, Members of course hold different views and each of them indicated the ideal number of leave days to be provided by an employer, and so on, in his or her speech. Yet, they are all in fact eager to claim the credit, saying for how long they have been fighting for the benefit and how much they have achieved, as if all the contents of this bill were brought about by their struggle.

Deputy President, I have a different perspective. In my opinion, with regard to labour welfare, for any society that has undergone several decades of constant changes, like Hong Kong which has evolved from a manufacturing centre back then to a service centre by last year, the background of its labour force has naturally been changed. The perspectives and angles held on leaves, including maternity leave and paternity leave, are certainly different from the previous ones.

Dr Helena WONG posed a question to me just now and I have subsequently made a casual inquiry to my own company. My company have never paid much attention to this bill. Why? We have only a few male employees and they are not much younger than I am. All of them are waiting for the arrival of their grandchildren but not the delivery of their wives. They would not care if you discuss with them about paternity leave, or whether it is a duration of three days or any other length.

Nowadays, the service industry dominates in Hong Kong and if a certain company hires more employees, it will of course be affected. However, in those

organizations which "make money with money", such as banks, their employees can still work with a touch of the computer at home. Do they really care whether their employers are going to provide that couple of leave days? Therefore, from the perspective of the business sector ... of course, the labour sector would not like to hear the "self-discipline" suggestion. But I believe that if male employees are in need and they explain to the bosses that their wives are going to deliver, it is likely that most of the bosses would say that it is fine to take three or five leave days off, provided that they will return to work as soon as there are no major issues at home. When the wife of an employee gives birth to a baby and if either the wife or the baby runs into a problem, so that the employee has to ask for an extra leave day or two, with or without pay, or with pay at four fifths — none of these are really contentious issues. What I have said is the actual situation in society.

However, after the Government has made it a law, all small enterprises must ... more than 95% of enterprises in Hong Kong now are small enterprises, and among them 80% hire less than 10 people. Of course, the labour sector may say that sick leave application is also made with short notice. How can you notify the company two days in advance that you are going to be ill today? If you are sick today, you just stop going to work today. This is well said. How can an employer know for sure that his wife is going to deliver in exactly two days or three days and provide prior notice to the company? As the Labour Advisory Board (LAB) agrees with such an argument and the Government endorses it, it may well be reasonable.

But then, with regard to the other provisions, should it be three days or five days? From the perspective of the employees, it is of course the more the better. If the authorities say that it should be three days, the employees would say that five days are better; if the authorities say that it should be five days, the employees would say seven days are even better. However, we may as well take a look at some other places in the world. Some colleagues have already cited many examples just now ... does the United States provide any paternity leave? You folks always like to talk about the United States, saying that it is most democratic, but I notice that the United States provides no paternity leave. They are not even granting "four weeks antenatal and six weeks postnatal" maternity leave and pregnant women there have to take annual leaves to deliver their babies instead. What I mean is that wives are going to take leaves without pay. I do not understand why such a system can exist in the United States. Perhaps it is because they have quality medical insurance and an excellent welfare system.

Deputy President, what I really want to say is that different kinds of models co-exist in modern societies around the globe. We now talk about paternity leave, but as a precondition, you have to have a job before you can talk about the issue. How can young people in many European countries enjoy this welfare benefit? Take Spain an example. Its overall unemployment rate is 20%, and 40% for people aged 25 or below. They do not even have jobs. The pregnant wives do not have jobs, nor do the husbands, so how ... this is a problem of their government, but how should their society deal with this?

In the actual situation of Hong Kong, the unemployment rate is 3.3% and most people are working. The business sector is able to make money but the problem in this process is the inadequate workforce, as there are not enough workers working for us. Getting resignation letters from employees is the experience the employers dread most and hence they exhaust all means to retain their staff. Three or five days for paternity leave is not a problem at all. Apart from giving a few more days of leave, they may also send gifts to the baby of their employee in a bid to keep the family happy.

Are all employers mean? I believe that this is definitely not the case in Hong Kong. Hong Kong employers cannot afford to be mean. Why? They are facing an unemployment rate of 3.3%, the likely scenario of not having enough staff, and the fact that to be fully-trained, an employee should be experienced, performing well, on top of working with good morale. If employees are denied of a welfare benefit as small as this, are they going to work whole-heartedly for you? In a macro perspective, the business sector is responsible for running their businesses well, looking after their own staff, and paying tax. After taxes are paid, the Government should be responsible for providing other supports. A number of colleagues commented just now that there should be seven-day paternity leave which is paid by the Government. If you have reached a consensus for the Government to pay paternity leave, I believe that many in the business sector, the small and medium enterprises, as well as the Liberal Party, will hold a different view on paternity leave. But now, those Members or political parties who claim to be representing the grassroots are pursuing the benefit at the expense of others, asking the small and medium enterprises ... asking the bosses to pay. It would be better for us to join hands and ask the Government to pay all the labour welfare instead. This is like cutting up a piece of barbecue pork: whenever extra pieces are sliced out, they should be paid by the Government. If this is so, we are going to support you.

After paying the tax, why the business sector ... the Government now holds \$3,000 billion in fiscal surplus and the Exchange Fund. According to the report submitted by the Hong Kong Monetary Authority to the Legislative Council, it is earning tens of billions to a hundred billion dollars investment return in a single year. Why does the Government not take better care of people's livelihood and pay paternity leave? If it is paid by the Government ... I do not know if the Government has ever made a calculation of the amount involved. Over the last two years, only about thirty to forty thousand babies were born each year. Taking this into account, how much does it cost for the three days' wages? Of course, we have to take into consideration the four-fifths cap too. The Government can compute this figure and why does it choose to create such a huge division between the employers and the employees? To be fully paid by the Government ... I have not calculated this for the Government but the amount is probably a very limited one when compared with the thousands of millions of fiscal surplus.

The current term Government is operating with difficulty. I make a point to say that the current term Government is operating with difficulty. A two-year delay in service commencement of an MTR extension line is going to cost more than this amount, and if there are more archaeological discoveries, the funding for preservation and re-planning will also exceed this amount. The Government is actually able to deal with this problem and there is no need for the Council or the small and medium enterprises in society to refuse payment due to their position as employers. Regarding the employees, apart from having representatives from the Hong Kong Federation of Trade Unions or the Hong Kong Confederation of Trade Unions, even the cross-stratum Democratic Party is also discussing the topic. You are creating even deeper division in society but I think the money involved is not much. Maybe the Government and the LAB have to make another calculation. If paternity leave is to be lengthened in future, what about asking the Government to pay the wages?

When discussing the Mandatory Provident Fund, we talk about tripartite contributions, a three-party collaboration with participation from employers, employees ... and the Government is just responsible for collecting money. But then, this does not cost too much. It does not involve an huge sum as in the case of the Mandatory Provident Fund. What about getting the three parties to co-operate and let the Government shoulder part of it? Indeed, many different models have been raised in society to deal with employer-employee issues. It is not always necessary for the two sides to lock horns and the Government has

adequate resources to handle this well. Why does the LAB not consider these views, so as to spare the six employers' representatives and the six employees' representatives the trouble of waging an argument? The Government would rather see the two sides argue than pay a single dollar. As the Government in fact holds the executive-led initiative, and it has decided to make it three days, let us stick to three days then.

As Dr Helena WONG has pointed out, since the LAB has voted on this internally, regardless whether it is a decision of six to three decision or seven to two, it is a consensus after all, and the employers have already raised a number of alternative views, I therefore respect the decision made by the LAB. Hence I will support the Government on this proposal and oppose all the other amendments. Thank you, Deputy President.

DR CHIANG LAI-WAN (in Cantonese): Deputy President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has been fighting and supporting persistently for paternity leave for some 10 years. In recent years, the DAB Women Affairs Committee has been pursuing for paternity leave. To that end, as Members may remember, Dr Elizabeth QUAT and Mr CHAN Han-pan, who pretended to be a "pregnant man", once staged a street protest. Hence when we were told that the Government will soon enact legislation on paternity leave, we were overjoyed. After all, the proposal has been deliberated for over 10 years — the issue has been discussed for over two years since it was officially written into the agenda of the Labour Advisory Board (LAB). Eventually a decision is reached, which is indeed a good move and we feel glad about that.

We of course hope that paternity leave can really perform its function so that when a wife is most in need of the company of her husband, the husband can stay by her side without worrying about being dismissed or other unknown consequences because of taking leave, and need not have guilty feeling or feel sorry for not being able to accompany his wife. In our opinion, when a pregnant woman is about to give birth, it is nothing more than nature for the husband to stay by her. It is our wish that in the future, all fathers-to-be can inform their employers confidently, "I have to take leave now as my wife is ready for delivery in hospital."

This issue has aroused many controversies in the Council. Some Members are not satisfied with three days of paternity leave and suggest that it should be extended to seven days. From the perspective of employees, be it three days, seven days, or even 70 days, the most important thing is to have a start. We think three days of paternity leave is a good start. If we do not have any legislation on paternity leave, it is utterly meaningless to talk about the duration of paternity leave.

Take minimum wage as an example. If we have no legislation on minimum wage, how can it be gradually increased from the original level of some 20 dollars? Similarly, today we have three days of paternity leave, which will be reviewed after a period of time and increased to five days when necessary. It is most important to enact legislation first. We were therefore shocked by some Members who asked for seven days of paternity leave as a start. This will very probably lead to the Bill being returned to the LAB for re-discussion. In that case, the time of re-tabling the Bill to the Legislative Council for scrutiny is uncertain. To a certain extent, we are grateful that the Government directly tabled the Bill to this Council for Members' decision — whether we should enact legislation first or returned the subject to the LAB for re-discussion.

In respect of the discussion on the duration of paternity leave, we know that — it is not true to say that we have not conducted any research and survey — according to the survey conducted by the Labour Department with the member institutions of 18 human resources management associations in 2012, among the institutions that have paternity leave policies, over 81% provide one to three days of paternity leave, while 43.5% provide three days. Having done some work on research and investigation, we opine that as a start, three days is appropriate and can serve the purpose. We have indeed made reference to the surveys and opinions of various sides.

In addition, some Members talked about the duration of paternity leave, for example, Singapore currently provides seven days of paternity leave, some European countries provide paternity leave up to several months, some Members even cited the example of Australia where employees are entitled to paternity leave of 12 months. Nonetheless, I would like to remind Members that the seven days of paid paternity leave provided in Singapore are borne by the government. Some European countries can afford several months of paternity leave, yet the money to pay for such leave comes from labour insurance instead of employers. Some Members pointed out that employees are entitled to

paternity leave of 12 months in Australia, but such paternity leave is unpaid. Is this what we want? No, our hope is that the fathers-to-be will get paid while taking their paternity leave. The three-day paternity leave currently proposed will neither be borne by the Government nor labour insurance; it will be borne by employers. Hence, we must obtain consensus from employers and employees and work according to the conclusion from negotiations. It is impossible for us to yield to the one-sided demand from a single political party. This world is not dominated by one or two persons, whose needs we must satisfy for fear of their Occupy movement. In this world, sometimes we have to find ways to balance the interests of various parties and consider some issues.

The amendments proposed by the Government will delete the requirement that the employee concerned must notify his employer two days before taking paternity leave. We find these amendments very reasonable because at the time of confinement, it is impossible to ... Despite that there is an expected date of confinement, some pregnant women may not have any labour pain at that time, whereas some women suddenly have labour pain before the expected date of confinement. Under these circumstances, we think it is reasonable that a husband should notify his employer of his taking paternity leave when his wife is about to have a confinement.

In respect of paternity leave pay, Mr Kenneth LEUNG advocates that the husbands concerned should get full pay for their paternity leave. On this point, I think sometimes one has to be reasonable. The person who has a confinement is not the man who is entitled to paternity leave but his wife. Moreover, currently even the wife can only get four fifths of her pay for her maternity leave, how can you justify that the husband who keeps company with his wife during her delivery should be entitled to full pay? After all, this is a procedural issue. We must make clear the logic of this issue. Should we think that employees should get full pay for maternity leave or even paternity leave, we have to work on it step by step and the decisions must be based on the deliberations between the representatives of employees and employers.

Lastly, Mr LEE Cheuk-yan proposes to protect those taking paternity leave from ... in the hope of protecting male employees from dismissal while taking three days of paternity leave. In our opinion, the existing legislation on labour protection is adequate. Hence it is not necessary to make amendment in this respect.

The DAB supports the amendments proposed by the Government. We hope that all fathers-to-be would be entitled to three days of paternity leave next year, so that they can accompany their wives at the time of childbirth. We however oppose to Mr Kenneth LEUNG's and Mr LEE Cheuk-yan's amendments. Thank you.

MR TOMMY CHEUNG (in Cantonese): Deputy President, I always respect the proposals put forward by the Labour Advisory Board (LAB) after a consensus has been reached between employees and employers. Nevertheless, the proposal about paternity leave is an exception, as I have to speak in opposition this time.

I oppose the proposal not because I am not sympathetic with the needs of male employees. As a matter of fact, the catering industry has all along been attaching great importance to labour relations, and particularly so in recent years. Due to the acute labour shortage in recent years, some food premises have been offering additional fringe benefits to retain the existing employees and attract new recruits, so much so that they are already offering paternity leave to their employees even though the relevant legislation has yet to be passed. However, one thing we should note is that those who can afford to offer paternity leave are mostly enterprises operating chain stores or high-end shops, and they are doing so in the hope that they can recruit enough employees from the existing stagnant labour market to ensure the continuous operation of their shops.

In this connection, many members of the industry have raised opposition views to me. They are not opposed to offering paternity leave to their employees; they just cannot agree with legislating for the mandatory provision of paternity leave for male employees.

The representative of the Hong Kong and Kowloon Vermicelli and Noodle Manufacturing Industry Merchants' General Association, for example, has explained at the Bills Committee's hearings the various difficulties faced by their members. According to the representative, as most of the Association's members are small or micro enterprises manufacturing vermicelli and noodle, they can hardly compete with large or medium enterprises for manpower resources. Since vermicelli and noodle manufacturing is specialized handcraft, it takes time for the employees to learn and practise the skill and therefore it is not easy to find substitutes for such employees. Moreover, as many of their employees are men, they will be particularly hard hit by the implementation of

the legislation on three-day paternity leave. Given the acute manpower shortage faced by the trade, the legislative proposal is indeed adding to their hardship as it is put forward without regard to their difficult situation.

Deputy President, the concern of the trade is more than the question of whether the three-day paternity leave will add to the operating cost, as they are worried that this new requirement will cause the acute manpower shortage faced by the trade to deteriorate further.

Having regard to the development of labour issues like minimum wage, and so on, the catering industry has queried several times whether our society is inclining more and more towards populism and welfarism. Once the three-day paternity leave is implemented, will the representatives of trade unions keep asking for more days of paternity leave just like the way they keep using different pretext to push up the minimum wage during negotiations? Deputy President, the many amendments we see today are just like the ornaments on Christmas trees: the more, the better. However, if we keep increasing the number of days, sooner or later we will have to provide a year of leave.

Today, Dr Helena WONG proposes on behalf of the Bills Committee an amendment to extend the paternity leave from three days as agreed by the LAB to seven days. From this we can see that the industry is not being over-worried. Besides, the authorities have also said openly that the three-day paternity leave is just a starting point.

Deputy President, the level of minimum wage is reviewed once every two years, and this arrangement is already giving the industry a hard time. But then, it is said that the legislation on the paternity leave will be reviewed one year after its implementation. The trade union representatives will certainly ask for more then. The industry really cannot cope with that. That being the case, I would rather stand firm on behalf of the catering industry and say no to the introduction of paternity leave. So long as the manpower shortage problem is not resolved, we will say no to the legislative proposal for the three-day paternity leave.

I believe many trade union representatives will get mad on hearing my words just now. I hope Members can understand that to the many small and micro enterprises, the provision of paternity leave is not a question of whether or not they should do it but a question of whether they can afford it. I always say that we should not frequently adopt an "across the board" approach to legislate for

paternity leave and add further to the burden on employers. However, the authorities are welcome to make use of promotion and education efforts to encourage the employers with ability to provide their eligible male employees with paternity leave.

We need to bear in mind that the catering industry is experiencing much hard time in remaining in operation. In addition to continuously rising costs, such as wages, rents, management fees, transportation costs and expenses on ingredients, business operators have to tackle problems like falling productivity and deteriorating service quality that are resulted from manpower shortage.

I have to reiterate that any government has to strike a balance among the various competing needs, respecting labour interests on the one hand and avoiding inflicting further damage on Hong Kong's business environment on the other. If the threshold for operating businesses continues to rise incessantly, the first victims will be the small and medium enterprises which have found it increasingly difficult to remain in operation in recent years. In the end, the market will become more tilted and the opportunities for members of the public to move up the social ladder will be further reduced.

For these reasons, I will say no to the other amendment proposed by Dr Helena WONG on behalf of the Bills Committee to raise the paternity leave pay from four-fifth of the employees' average daily wages to full pay. This request made by Dr Helena WONG is totally groundless. I can see no reason why the paternity leave pay should be better than that of maternity leave. Certainly, I know what they want. If the employees taking paternity leave are granted full pay, employees taking maternity leave should all the more be granted full pay. I just know they want to move along this line gradually.

Dr WONG may argue that employees taking maternity leave should be granted full pay to tie in with the arrangement of paternity leave. We need to understand that employers will suffer losses regardless of whether the employees are taking maternity leave or sick leave. This is because when employees take leaves, employers have to redeploy manpower or delay the original work schedule. All along, we have been adopting a co-operative attitude in handling employees' needs. Employers are willing to grant paid leaves to employees according to their needs, and employees are willing to get leave pay at a discounted rate. I hope Members will not arbitrarily nullify the compromise reached through mutual understanding, and describe the agreement made in the

past as an unreasonable approach adopted by employers to exploit their employees.

Under the pressure exerted by Dr Helena WONG, the Secretary has proposed an amendment to remove the wording "at least two days" from the requirement for an employee to notify the employer at least two days before the date of paternity leave, so that the employee is required to notify the employer on the day he is going to take the leave. I can hardly support this amendment either.

For a male employee who has notified his employer three months before his wife's expected date of confinement, he can notify the employer of the intended date of paternity leave "before proceeding on leave". In other words, he can notify the employer one day before the intended leave. What is more, for an employee required to go to work at 11 am, he can give the notification at 8 am that day. In that case, how can the employer find a substitute who will be ready to take up duty at any time? Such an amendment will certainly give employers hard times.

As maternity leave stretches "four weeks before and six weeks after" the date of confinement, it usually lasts a longer time and employers are able to make arrangements beforehand in general. As regards paid annual leave, employers are required to consult their employees or the employees' representatives before specifying the dates of leave. Hence, we have all been holding fast to the principle of "arriving at an agreement through discussion". Why should the arrangement for paternity leave be so loose?

All employers want to maintain a cordial relation with their employees. As such, if they can find substitutes to take up the work at any time, employers will naturally let their employees take leaves when such need arises. However, as I have said earlier, in most cases employers just cannot find any substitutes. At weekends or other busy time, the catering industry can hardly find helpers within a short time, and it is all the more difficult for the micro to small enterprises to find helpers that way. As the amendment is drafted in such a loose manner, the employee can take leave after making a phone call, leaving the employer no room for discussion. Is this a fair arrangement? Nevertheless, Deputy President, I have got used to the fact that this Secretary is not very fair to employers.

Deputy President, I have another point of concern in scrutinizing this Bill, which is the difficulty employers may encounter in verifying the authenticity of the birth certificates issued overseas, particularly those written in language other than Chinese and English (such a Thai). Regrettably, the authorities have not given us any answer that could help alleviate our worries, nor have they promised to provide employers with any form of assistance. Instead, they only said that any disputes over documents required for paternity leave entitlement would be dealt with in the same way as disputes concerning statutory entitlements under the Employment Ordinance. The authorities are totally irresponsible in this respect.

I urge the authorities to provide employers with suitable guidelines upon the passage of the Bill, and help them verify the validity of the documents regarding childbirth submitted by employees. Enquiry hotlines should also be provided.

Regarding the amendments proposed by Mr LEE Cheuk-yan, it is just impossible for me to give my support. He has proposed two amendments. One of the amendments is to allow employees who have not been employed under a continuous contract for a period of not less than 40 weeks to enjoy three days of paternity leave; the other amendment is to allow employees to enjoy during the paternity leave notification period the same employment protection as those enjoyable by employees taking maternity leave, including the protection against unreasonable dismissal by employers. In my view, these amendments are just the thin end of the wedge, reflective of the trade unions' intention to ask employers for more benefits incessantly.

Deputy President, I am particularly opposed to the second amendment. Pregnant women about to take maternity leave may feel uncomfortable due to the biological changes in their bodies, and that may affect their job performance. Besides, as the maternity leave may stretch as long as "four weeks before and six weeks after" the date of confinement, it is reasonable to protect them from unreasonable dismissal through legislative means. However, the male employees about to take paternity leave should not have any biological changes due to their wives' pregnancy, and the additional time spent on taking care of their wives should not have too large an impact on their job performance. What is more, the maximum length of the paternity leave is but three days. Will any employer choose to dismiss them unreasonably in the face of the currently acute manpower shortage just because of these three days of leave?

From this we can see that there is no incentive for employers to unreasonably dismiss their employees intending to take paternity leave, and it is just impossible for the employers to do so. Nevertheless, Mr LEE is asking for excessive protection for these employees, as his amendment it proposes to make it an criminal offence for an employer to dismiss an employee who has notified his employer of his intention to take paternity leave before he has taken his paternity leave in full, and the employer concerned has to give the employee payment in lieu of notice, an additional payment equivalent to seven days' wages, and the pay for the three days of paternity leave. What is more, the employee may also claim terminal payment and compensation from his employer.

According to this Bill, the paternity leave notification period can last from the date the expected date of confinement is known to 10 weeks after the date of confinement. In other words, if the employee notify his employer immediately after he knows about his wife's pregnancy and take the paternity leave right before the expiry of the 10-week period after his wife's date of confinement, the notification period can last as long as 11 months.

If the amendments proposed by Mr LEE Cheuk-yan are passed, I am afraid employees are provided with not only employment protection but also a pretext which they can exploit to support their work-to-rule attempt. This will be very unfair to the employers. The amendments proposed by Mr LEE Cheuk-yan care only about the welfare of employees to the neglect of the realistic employer-employee relations. Given that these amendments are putting employers in a very unfavourable situation, I will not give them my support.

Deputy President, I have heard that the three aforesaid proposed amendments which have not been agreed in the LAB might be passed eventually. Hence, I have to warn the Secretary for Labour and Welfare Matthew CHEUNG that once the said amendments are passed, he should withdraw the Bill in the Third Reading stage or take the blame on himself and resign after the Bill has passed its Third Reading. Otherwise, he can hardly remain accountable.

Deputy President, I so submit.

MR TANG KA-PIU (in Cantonese): Deputy President, the Hong Kong Federation of Trade Unions (FTU) has fought for paid paternity leave for a long time. As a Legislative Council Member for the labour sector, Mr WONG

Kwok-hing has been successfully elected a few times as a Member through direct election. He fought for it through raising questions in the Council, proposing motions in the Committee and moving motion debates in the Legislative Council Meetings. He also gave a detailed account of what he did in fighting for it outside the Council, and in the course of fighting, public opinions in society have gradually become a consensus. Therefore, I believe that many colleagues are expecting that the legislation on paternity leave or paid paternity leave can be formally passed today or tomorrow as a new welfare item for employees or an actual measure to encourage giving birth. We hope that this paternity leave "baby" can be born smoothly.

As usual, Mr Tommy CHEUNG from the Liberal Party has just said something frightening in his speech. He warned the Government that if certain amendments were passed, the Bill would be withdrawn and the Secretary had to resign. This would be tantamount to killing this baby. His warning really worries the labour sector. We will respond to some remarks made by the Liberal Party, including Mr James TIEN, in due course. Nonetheless, in regard to paternity leave, the currently proposed option, namely three days of paid paternity leave plus a comprehensive review and improvement after one year, has at least been well received by society.

A number of Members have mentioned in detail some examples or the situation of implementation in many countries. They say that at present, at least 48 countries or places have implemented paternity leave. The details, such as whether it is paid or unpaid leave, which parties are mainly responsible for paying this welfare item, of course, vary from place to place. From this, we see that it is a general trend.

In fact, as early as May 2002, The Hong Kong Polytechnic University published a report entitled Family-Friendly Workplace: A Research Report. According to this report, 90% of the respondents agreed to the provision of paternity leave. In 2009, The Chinese University of Hong Kong conducted a survey on the views of young women on family-friendly policies, and nearly 90% (87%) of the female respondents agreed to the provision of paternity leave. In 2012, according to the result of the questionnaire survey announced by the Hong Kong Clerical and Professional Employees General Union of the FTU, 84% of the respondents said that their employers had yet to provide this benefit. That means 84% of the employers had not provided this benefit voluntarily.

However, half of the respondents hoped that they could enjoy paid paternity leave.

The results of the survey conducted by the FTU in 2012 mentioned above obviously differ from that of the survey conducted by the Labour Department on 18 member organizations of the HR Managers' Club. According to the Labour Department's survey, 81% of private organizations are providing one to three days' paternity leave to their employees. However, we deeply believe that this is not the fact. As Mr Tommy CHEUNG said, perhaps a majority of organizations stated that they did not have the capacity to provide paid paternity leave. But I believe the fact is that they do not want to provide such leave. He also mentioned earlier that the largest problem faced by the enterprises at present was manpower shortage. He suggested that this measure could be considered only after the enterprises had enough manpower. However, the so-called manpower shortage or manpower stress is the best bargaining chip for employees or the labour sector. When the competitiveness or bargaining status of employees is higher, the employers will offer better employment conditions. Under the circumstances, if employers are still unwilling to provide such leave, when they have sufficient manpower or enough staff, that is when people are looking for jobs instead of jobs waiting for people, can we still expect employers to provide such leave? If they do, this will be a joke indeed. Even if we do not look at the issue from the perspective of social responsibility, we may judge it from the angle of supply and demand. Therefore, Mr Tommy CHEUNG's logic that the provision of paternity leave can be considered only after sufficient manpower has been secured is basically invalid. This is why we hope that paternity leave can be provided under the form of legislation. We actually hope that all employees can enjoy this protection and benefit, irrespective of the economic situation, unemployment rate or scales of the enterprises.

Mr TIEN mentioned earlier that as the Government had so much money, the best way was for the Government to do these things with its money. This is being generous at other people's expense, while the employers do not need to pay. Will they put forward a motion asking to repeal maternity leave and request the Government to pay for it? The more I listen to his speech, the more I find it interesting, as all problems would be shouldered by the Government. If Mr TIEN becomes the Chief Executive, he will uphold the "big government" principle, by which the community will have no responsibility and all responsibilities will be taken up by the Government. I really find it very

interesting. However, we from the labour sector are concerned about the problems of the grassroots. We often mention the first allocation or the second allocation. The so-called first allocation refers to the reasonable allocation obtained by employers and employees in the labour market. This involves manpower supply and demand, and also gaming or relationship between employers and employees. This actually involves enterprise conscience. If there is a more reasonable profit allocation between employers and employees, meaning that when the employers earn more and can afford it, they will then provide reasonable welfare. We think this is the best way. If it always has to rely on the second allocation, I think this is not a mature society. Hence, we opine that both should apply. However, what we now hear is that employers should not be involved and the Government has to tender full payment. I think this kind of remarks is not mature either.

In fact, nowadays, a lot of men in Hong Kong attach much importance to family and relations with their children. My feeling is that the present situation is different from the situation 20 to 30 years ago or 30 to 40 years ago. Regardless of any social stratum in particular, they value the relations with their children highly. In the past two years, the FTU conducted a survey before Fathers' Day for the views of some working men on whether they were good fathers. There were various options in the questionnaire. Most of the working men — they were fathers, regardless of their social status and age — chose the following as the first option. Three quarters of them (three in four interviewees) thought that to be able to communicate with children was the condition that a good father should have. The second condition was to have time to stay with family members. The third condition was to be able to satisfy the economic needs of children. The fourth condition was to have some academic knowledge, but only one in four interviewees chose this condition. In fact, in the Hong Kong society nowadays, both men and women value families and parent-child relationship highly. We welcome this situation as a start, and we hope that the legislation concerned can be introduced as soon as possible. Therefore, we hope that Secretary Matthew CHEUNG can, in due course, state clearly when the legislation will take effect if the legislation can be passed, and not be withdrawn as said earlier. In fact, this has not been mentioned. Instead, it is only said that it would take effect as early as possible. If this cannot become a Christmas present, is it possible to be a Chinese New Year present for fulfilling the expectation of workers in general?

In fact, paid paternity leave is well received. A Member just raised a written question today asking about the figures on paid paternity leave enjoyed by civil servants at present. Mr WONG Kwok-hing just quoted that the accumulative figure was 5 524 people from 1 April 2012 to 31 March 2014. However, the latest figure obtained today is 7 036 people as at 30 September 2014. In other words, within these six months, an additional 1 500 male civil servants have enjoyed paid paternity leave. This proves that it is well received and may encourage employees to start a family and raise children.

Earlier on, the representative for employers or the Liberal Party said they were afraid that they could not provide the leave. But in fact, the Government says in a lot of papers that based on survey results, it is projected that paid paternity leave only accounts for 0.02% to 0.04%, which is less than 0.1%, of the employers' costs. Therefore, this legislation is not a great scourge. I hope that employers can accept it with pleasure. Later on, they can see that the male employees, with paternity leave taken, will come back to the companies or the working places with smiles and blessings to serve the employers with a stronger sense of belonging.

It has long been said that employers will discuss with the employees. However, I want to state clearly the situation of many workers in the service industry, especially those who need to work shifts. For example, if he is a driver or security guard who needs to work shifts and his wife suddenly needs to give birth to a baby — the employers nowadays will, of course, not employ extra staff as this involves costs — When manpower is tight and suddenly an employee says that his wife needs to give birth to a baby and he has to leave early, will that be so easy? In the past, we have really heard a large number of such grievances and complaints. Hence, we think that legislation is necessary. While it is necessary to legislate, the Government has amended the notice period to make the situation more practical. In other words, an employee only need to serve a notice before he takes leave or enjoys his leave, and the requirement of at least two days in advance will be deleted. We opine that this is more practical and acceptable.

Three days' paternity leave as stipulated in the legislation is, of course, not enough. Before I became a Legislative Council Member, I worked for the FTU. As an employee, I received paternity leave from my employer and it was a five-day leave plus weekend, during which I learned how to take care of my wife and baby. In this period, apart from looking after the emotional need of my

wife, I could also be more focused on the most basic things in looking after the baby, which are preparing milk, feeding with milk, bathing and lulling the baby to sleep. If there is no such a period of time for a male employee to look after his wife as well as to learn gradually how to take care of his baby, to some fathers with newborn babies, I believe that the absence of paternity leave or the paternity leave being too short will be inconvenient for them.

Nonetheless, as Mr WONG Kwok-hing or other Members said, the Labour Advisory Board (LAB) was established in 1927. After being reformed, it introduced a labour union election system in 1946. This is a conventional platform for negotiation between employers and employees, and a platform for reaching consensus on policies. On this platform, since FTU representatives and LAB representatives take part in the negotiation, the consensus which is not easily reached will earn our respect. Hence, when dealing with the amendments concerned, our attitude will be the same as ours in dealing with the amendments in the Bills Committee, we will respect the consensus reached by the LAB, and we will respect as well as support the original motion.

Of course, Mr Tommy CHEUNG said earlier that if the amendments were passed, the Government should withdraw the Bill. However, you cannot clap with only one hand; it takes two hands to clap. I have read a report from newspaper. The Government tried this before in 1994. At the Second Reading stage, the amendments concerned were passed. At the Third Reading stage, the Government withdrew the Bill. What will be the practice? The LAB will say that a consensus could not be reached on the amendments today and another discussion is needed. The amendments passed in the Second Reading today will then be passed to the LAB for another discussion. Nonetheless, the new session of the LAB has just set up with the participation of new members from the business sector. The LAB will have reason to say that it needs to consult its members from the business sector. However, how long will the consultation last before the amendments can come back to the Legislative Council?

Therefore, as a Member representing the labour sector and who has been fighting for paid paternity leave for a very long time, I very much hope that this paternity leave baby can be smoothly born in the Legislative Council Meeting today or tomorrow. I also earnestly hope that Secretary Matthew CHEUNG can respond whether the threatening remark made by Mr Tommy CHEUNG is true or not. I really hope that he can give a response.

Finally, if the Bill is passed, I will urge the Bureau to actively give a response in the reviewing period one year after implementation of the measure on questions such as the number of days for paternity leave, whether it is fully paid, whether the employee can be spared from dismissal, and whether at least three days' wages as compensation can be given.

I so submit. Thank you.

MR POON SIU-PING (in Cantonese): Deputy President, the amendments proposed in the Employment (Amendment) Bill 2014 (the Bill) this time are not only late but also unfair. The amendments are late because civil servants have already been given the entitlement to paternity leave since 1 April 2012. The amendments are unfair in that civil servants are entitled to paternity leave of five days but the Administration only proposes paternity leave of three days in its proposed amendments. Given all these inadequacies, some Members have proposed amendments to extend the duration of paternity leave from three days to seven days. Some Members also proposed amendments to protect the employee concerned from dismissal while taking paternity leave. As a Member representing the labour sector, I fully understand these pursuits.

My attitude towards paternity leave is based on two principles: to perfect the Bill as much as practical for improving the rights of employees; to implement the relevant improvement measures expeditiously in order to benefit employees. The Secretary for Labour and Welfare once hinted that if the amendments passed by the Legislative Council run against the consensus reached by the Labour Advisory Board, the Administration would withdraw the Bill. As a representative of the labour sector, I will cautiously take various factors into consideration before making my voting decision.

Today in this Council, we debate on whether the duration of paternity leave should be three days or seven days. However, in addition to the duration of paternity leave, there is also the problem of how to take such leave. In Britain, a new paternity leave model that combines paternity leave and maternity leave into a kind of parental leave shared between a couple will come into effect from 5 April next year. The operation of this parental leave is not complicated. If the mother cut short her maternity leave and resume work earlier, the maternity leave untaken will become the parental leave of the father.

The arrangement to combine maternity leave and paternity leave will facilitate parents to take care of the newborn without having to increase the total days of leave. The Business Secretary of Britain has pointed out that the reform will allow fathers to play a larger part in taking care of the newborn, and the arrangement is conducive to the business sector. The reform will create a source of proactive and flexible manpower which will widen the labour market and prompt economic growth.

At this moment, I do not know whether the amendments relating to paternity leave will be passed, but it is absolutely not my wish to see the Administration withdraw the Bill. The Administration has made it clear that a review will be conducted one year after the implementation of the enacted legislation. When the Government conducts the review, I hope it will not only focus on the duration of paternity leave — even though it is a very important point — but also learn from the experience of Britain in reforming the arrangement of maternity leave and paternity leave.

Deputy President, I so submit.

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, I request a headcount.

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

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

DEPUTY PRESIDENT (in Cantonese): Dr Priscilla LEUNG, please speak.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, I speak in support of the Employment (Amendment) Bill 2014.

Deputy President, before I air my views, I have to commend on the gentlemen nowadays. In recent years, I have actually met quite a number of

good fathers. Sometimes, their performance is even better than the mothers. Hence, I think that if male employees can enjoy paternity leave, it should be a piece of good news to Hong Kong as a whole. I remember that Mr WONG Kwok-hing moved his motion on 11 November 2011, in which the need for paternity leave was mentioned. In my speech then, I shared with Members a trend of the situation of gender equality in Hong Kong at present, which was regarded as rather good. In certain trades, the preponderance and rate of employment of female are much higher than male. Even in the admission rates of universities, including accounting, law and medicine courses, female students are dominant. Hence, the principals of some boy schools ask Members to consider how male can be treated equally in Hong Kong in the future. They have long ago considered male rights and interests under gender equality in future.

I have been working in the City University of Hong Kong (CityU). I remember that I asked about the situation of the accounting office of CityU before I delivered my speech that day. They said that with the recruitment exercises in recent years, there were only a few male employees among the few dozens of employees. During an interview, even though they wanted to choose male candidates, they eventually chose female candidates. From this, we see that it is indeed necessary to go beyond the traditional concept of male chauvinism and it is the responsibility of women to look after children. I believe that these are all outdated. Besides, I see that a lot of male employees, regardless of their social status and personality, especially some young fathers, really enjoy accompanying their wives to the delivery rooms. They will happily share photos of their children at birth.

In our office, most of the colleagues are young men. I remember that two colleagues had just become fathers then. Their abilities at work were not affected in reality. However, when expecting the birth of the babies after they were born, I found that the young men were a little absentminded. They might keep thinking about family matters. I think this is very natural. Hence, when Mr WONG Kwok-hing, as a representative of the labour sector, kept on proposing paternity leave then, I was in support of this direction.

In the debate today, it seems that apart from Mr Tommy CHEUNG's speech that I heard just now, most of the areas of disagreement lie in the specific details. For example, should paternity leave be three days or seven days?

Should the wage be four fifths, five sevenths or in full? Or should the Government pay the balance? I think on this issue, when we can basically succeed in fighting for a mechanism and start the legislative process, it is a major progress already. Although I have pointed out earlier that most of the people that I contact are professionals, senior "workers" or simply workers, who of course hope that the paternity leave could be four weeks before the due date and six weeks after delivery, and this will be ideal, the problem is that many employers ... I have a relative who is an employer of a small and medium enterprise. He may have to calculate the expenditure every single day. Sometimes employers are the ones with their pockets emptied every day. I hear that if we ask to have seven days of paternity leave at the start, many employers would be worried. Particularly when the Secretary points out that a review will be conducted after one year, they are worried that the leave will be lengthened. As I said earlier, the workers of course hope that the ideal of four weeks before the due date and six weeks after delivery can be attained in the first step, so that they can accompany their wives for the whole period. But the point is we may have considered the question from one side only.

Mr James TIEN said earlier that it did not really matter. If the wages had to be paid in full, the balance would be subsidized by the Government. I do not agree with that, as there are already a lot of statutory holidays in Hong Kong, and the usual practice is negotiation between employers and employees. Currently, we are fighting for paternity leave. In future, there may be other holidays. If the Government has to take up the expenses every time, which can be said easily, we have to consider the long-term situation sooner or later. Some colleagues mentioned overseas experience. The welfare in overseas countries is of course quite good. But after a long period of time, say after 10 years, if we fully follow the practice of overseas countries when the wages concerned are shouldered by the Government, the burden of the Government will not only involve the Treasury. Should we consult all the taxpayers then? In the future, the stakeholders will not only be employers and employees. It will be for the whole community to discuss whether paid leave should be subsidized by the Government, and what other items they also want the Government to subsidize. A lot of other questions will emerge in the future. This will have substantial and profound impact on the system. Hence, I do not agree recklessly to suggest subsidization by the Government. I think we should respect the mechanism, under which there will be discussion between employers and employees, with the Government as the facilitator, in order to reach a consensus. Of course, some

employers think that three days' paternity leave will also pose pressure on them. However, since a consensus has already been reached in the LAB, we should respect it, should we not?

In this respect, I think negotiation is actually an art. It is an art in whatever aspect. When discussing political reform, I really want to recommend this approach of thinking to Members. Mary Parker FOLLETT, an expert who promoted the learning of mediation, once said, "What is the most important thing that human society has to learn? It is to learn to have the courage to find out the methods by which people can agree, the methods by which different stakeholders can agree. The crux of the art of negotiation is agree to disagree." In other words, we know that in society, different stakeholders will consider from their own stance and will disagree to a lot of things. But for a better development and for reaching a consensus in society, they are willing to make their first move.

Therefore, to us, three days or seven days of paternity leave is actually a process in the development. Social policies, including this kind of social welfare, are developed in an incremental way. When we are not familiar with it and employers are very worried, let them take the first move. After taking the first move and they find that the impact is not that substantial, we may then fight for five days or seven days. We will find that there will be fewer voices of opposition. Charles LINDBLOM always mentions incrementalism. When we studied public administration, people in the old days highly upheld incremental development. Only if we do not dispute so seriously as to terminate the discussion but move on step by step, we can arrive at the final destination, or a better place as reckoned by more people very soon.

However, I find that the Hong Kong society at present seems to have lacked this kind of wisdom. I was also here during the last Session. I think it was rather difficult for Mr WONG Kwok-hing to bring out a breakthrough that day. But today, it seems that the voices of opposition are not that loud. Therefore, when some people ask for three days of paternity leave, other people ask for seven days or 15 days, I think that we should not ... it is very easy to say the number of days. I can casually say four weeks before the due date and six weeks after delivery.

Nevertheless, we should never write off Members' efforts. I think my colleagues have indeed put a lot of efforts in fighting for this achievement. I particularly appreciate the efforts from Members representing the labour sector.

If you ask me about Mr WONG Kwok-hing, I will think of paternity leave. In regard to this consensus, I respect the LAB. But I see that other colleagues ask for seven days of paternity leave and they keep on criticizing the LAB. Sometimes, the Business and Professionals Alliance for Hong Kong may not agree with the opinions of the Hong Kong Federation of Trade Unions. However, we objectively and fairly say that on this issue, they have put in a lot of efforts. In regard to three days or seven days of paternity leave, why do they choose three days? It is because they need to consider the concern of employers.

Speaking of the Secretary, my biggest fight with him in the past was on the Domestic Violence Ordinance. There was a highly controversial point on the Domestic Violence Ordinance and we almost terminated the negotiation. Some people thought that it was better not to pass the law. When everyone talks about his own stance, he will say that it is very difficult to change. However, I also feel that the Secretary can really follow good advice. He has really forged a consensus this time. I know a lot of employers and am aware of their worries. In fact, this achievement cannot be attained easily. Therefore, first, I am of course very delighted that we can make our first move and can have paternity leave. At the same time, we also have to consider how the various trades and industries will react to this breakthrough and try to carry out the legislated measures. After legislation, there will be less flexibility and discretion. If everything is rigidly written in the legislation, can some enterprises stand it? Even though someone is willing to do something in a certain way, may be against the law after legislation and the flexibility is thus minimal. Hence, we might as well let it go under the test. During the review in the coming year, the voices of opposition that we hear may be fewer, and we can move another step forward together. Is it not better?

In this regard, I speak in support of this Bill. At the same time, I have to commend the colleagues representing the labour sector who have put a lot of efforts in this issue. They are willing to agree on three days' paternity leave, and this is a consensus reached with their courage. This can avoid having every piece of legislation as stagnant as the political reform in the community, but is taking a step forward. On issues concerning people's livelihood in particular, we should have mutual understanding and accommodation.

With these remarks, Deputy President, I support the amendments.

IR DR LO WAI-KWOK (in Cantonese): Deputy President, I speak on behalf of the Business and Professionals Alliance for Hong Kong (BPA) in support of the resumption of Second Reading debate on the Employment (Amendment) Bill 2014. My speech will be rather brief.

The BPA has all along been emphasizing that paternity leave involves salary cost and manpower deployment, as we are concerned that some small and medium enterprises (SMEs), particularly those with very few employees, may not be able to cope with it. I do not agree with the legislation, but we respect the decision of the Labour Advisory Board (LAB). As the relevant proposal has been passed by LAB, we believe that most companies have already got prepared for the new legislation which is about to be amended soon. We consider that legislating for a three-day paid paternity leave as a statutory entitlement under the Employment Ordinance is already a giant leap for Hong Kong's Employment Ordinance, as the rate of paternity leave pay is pitched at four fifths of the employer's average daily wages. We hope the labour sector understands the fact that enterprises have to pay additional cost for the newly added benefit. Perhaps the impact is minimal to big enterprises, but to SMEs, the impact would be rather substantial, as it will add a burden to the employer's operating costs.

BPA does not support the idea that the number of paternity leave days should be increased and employees should be granted full-pay as proposed by some Members today. BPA cannot support Mr LEE Cheuk-yan's proposal of providing employment protection against dismissal for employees taking paternity leave. As to when should an employee who intends to take the paid paternity leave to give advance notice to his employer, we consider that as the employer is already expecting that the employee is going to take paternity leave, and the relevant employee should have notified the employer the expected date of confinement beforehand, both sides should have made the necessary preparation. As such, we will support the relevant amendment.

Deputy President, I so submit.

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

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, according to a survey report entitled "The World Factbook", the fertility rate in Hong Kong is the lowest among 222 countries and places all over the world, standing at only 0.98 birth per female. Low fertility rate would bring about the social problem of an ageing population. Judged from the actual situation of Hong Kong at present, the problem of an ageing population does exist and the overall competitiveness of the city has been seriously affected.

Over the past few years, there has been no strong desire among local women for child-bearing and I believe the reasons are many-fold. Economic situation, or affordability, is one of the important factors to consider but apart from this, there should be many other factors behind, including education. As we all know, a large number of well-off families have either sent their children abroad to study or simply immigrated, which actually means a vote by foot to express their discontent with the local education system. Housing problem is another determining factor since it is a known fact that apart from the difficulty in home ownership, the limited living space in most of our housing units has also made it nearly impossible to accommodate new family members. In addition to those already mentioned, I believe there are other factors affecting people's decision in giving birth or not, including the political stance of the Central Government in handling issues involving the SAR Government as well as the governance approach of the latter, and so on. Such issues have, in recent years, given many people the impression that it would be very difficult for the next generation to go on living in a place like Hong Kong and for this reason, they choose to give up their child-bearing plan. Under such circumstances, Hong Kong's birth rate has remained low.

In response to the repeated requests from the community, the SAR Government first formulated paternity leave for civil servants to enjoy a leave of five days, followed by the very reluctant attempt today to legislate for a three-day statutory paternity leave for all male employees of Hong Kong. Is it a measure to boost the fertility rate or a gesture to address public aspiration? In actual fact, it is particularly true that to better address the emotional needs of pregnant women, their husband has to keep company with them before and after childbirth, thus rendering it necessary to formulate statutory arrangements to grant paid paternity leave.

Deputy President, with the growth of local economy, professional post-natal care services begin to spring up in the community and quite a number of female workers have taken up the job of post-natal care helpers. They are responsible for staying by the side of the pregnant women under their care before and after childbirth, assisting them in taking care of their health and the newborns. Nevertheless, in the opinion of many post-natal care helpers and pregnant women under their care, though such helpers can be employed to keep company with pregnant women for 24 hours, what they can offer is technical support only and in no way can their services substitute the comfort from the spouse of these pregnant women as far as their psychological and spiritual needs are concerned. When giving birth to a child, women have to endure much labour pain and there should be someone by their side to comfort them. Moreover, the coming of a new life has also brought with it a number of new responsibilities and it would not be appropriate to leave them all to the mother, who would actually be in need of the support from her husband.

On the other hand, we all know that many families cannot afford the costs of post-natal care services and their need for paternity leave is therefore more pressing for the fathers-to-be to have more time to take care of their wives. Another more important point is that physiologically, women require a lot of comfort or assistance during and after pregnancy or else they would be exposed to the risk of developing post-natal depression. There are always news report about cases of post-natal depression which have finally led to family breakdown. This is the reason why we have to pay extra attention to pregnant women and support them with emotional care so as to handle the very important task of reducing the risk of post-natal depression.

Deputy President, Hong Kong is a highly developed society but our protection to employees still left much to be desired, and protection to the grassroots is particularly inadequate. For example, concern has frequently been expressed about such issues as retirement protection and maximum working hours but the relevant policies have yet to be finalized, and enhancements in these respects are still unreachable within the foreseeable future. Among them, the problem of excessive working hours has brought about some far-reaching implications. With less time together than apart, family members tend to become estranged from each other since they seldom meet and the alienation of husband and wife has also led to the problem of broken marriage. Although the situation for employees at present is far from desirable, it does not mean that we have to endure it forever without making any improvements.

It is my opinion that the granting of paid paternity leave to male employees would, to a certain extent, help relieve the pressure from such family problems and this is a policy that should be formulated. This is also the reason why we have been urging for its formulation during all these years but most regrettably, as pointed out by some colleagues, the Government has waited until now to provide for the relevant arrangements. The legislative exercise is a belated effort, though something is better than nothing; it is better late than never. However, the Government has proposed to grant a paid paternity leave of three days only and for many families, the measure, if passed, can only be described as a minimal protection which is slightly better than nothing. The effect to be achieved would not be very significant and worse still, it would give rise to an unjust and unfair treatment.

Deputy President, why do I say so? First of all, I have to point out that it would be inadequate to grant a paternity leave of three days since generally speaking, three days would only be enough for a father to stay with his wife when the latter is giving birth to their baby. There would be no time left for the father to undertake preparation work for the childbirth and take care of his wife before and after childbirth. His wife would be left to handle all these on her own, which is neither appropriate nor desirable.

Besides, I consider the arrangement unjust and unfair because the Government has already taken the lead to grant a paternity leave of five days to civil servants but allow all other employees a leave of three days only. As a matter of fact, the five-day paternity leave arrangement made for civil servants has entitled them to a leave of not only five days but nine days instead, since civil servants are required to work five days a week. If their paternity leave starts from this Monday, they would be off for a total of nine days as there is an additional leave of four days arising from the weekends of this week and last week. Just imagine, if civil servants are granted a paternity leave of nine days — or maybe we should make it five days instead of nine days — if we consider it necessary to grant civil servants a five-day paternity leave, why should all other employees settle for less with a paternity leave of merely three days? This is grossly unjust and unfair.

Deputy President, I understand that it is normal for the remuneration package of civil servants to compare more favourably with that offered by private organizations but great importance has to be attached to the fact that the granting of paternity leave, which we are discussing today, is an essential element in

fostering a healthy family and it is my opinion that as far as this issue is concerned, there should be no difference in treatment in respect of civil servants and all other employees. Such being the case, if the Administration insists on the granting of a three-day paternity leave, the measure would be a genuinely unjust and unfair arrangement.

Amendments will be proposed by Members today to extend the duration of paid paternity leave from three days as originally proposed to seven days and I would give my support to the amendments. In fact, the Community of Neighbourhood and Worker's Service Centre, the organization to which I belong, has neither a sound financial condition nor adequate manpower but as early as five years ago, we already implemented the measure of providing all our male colleagues with a seven-day paternity leave on full pay. If organization like ours can implement the relevant policy for so many years without any problem, why can other organizations not do so given their more favourable financial or manpower support? This is really perplexing to me.

Deputy President, another point to consider is: How many times would a male employee be possibly entitled to paternity leave under the same employer throughout his whole life? Judging from the actual situation at present, it may be once but no more than twice, and it would be very rare for anyone to be entitled to paternity leave for the third, the fourth or even the fifth times as Dr Kenneth CHAN. Though not impossible, such cases are so rare that they can be regarded as exceptional. Therefore, I think the arrangement would definitely not produce any great impact on employers and we should not exaggerate the problem and shorten the duration of paternity leave, depriving unreasonably the employees' right to enjoy their benefits in this regard.

Apart from the proposal of granting a three-day paternity leave, which is considered inappropriate, the Government has also proposed to follow the approach adopted to determine the pay rate of sick leave and maternity leave and remunerate employees taking paternity leave at four fifths of their normal pay. Dr CHIANG Lai-wan has commented earlier that we have no reason to grant paternity leave on full pay if the rate of maternity leave pay is pitched at four fifths of the employee's wages, but I consider her arguments unreasonable. As far as maternity leave is concerned, it is against the free will of female employees taking the leave to receive a leave pay of four fifths of their normal pay and they are actually forced to accept the pay rate since the Government has been reluctant

to review and revise the rate. Women taking maternity leave have been made to accept leave pay pitched at only four fifths of their wages but this is now cited as the reason for achieving consistency to align paternity leave pay with the rate applicable to maternity leave. Actually, there is really no big deal since the Government may accede to our request and make a correct move to revise the rate of maternity leave pay as well so that both paternity leave and maternity leave would be granted on full pay. There is no reason for us to compare with the inferior without making any attempt to strike a balance with a more desirable approach and thus, I consider the arguments put forward inappropriate.

Therefore, Deputy President, paternity leave should be granted on full pay instead of four fifths of the employee's wages. In simple terms, I remember when we were fighting for maternity leave on full pay back in those years, Mr James TIEN once pointed out that employers were often forced to violate the law since some employees had chosen to resume duty early without exhausting their maternity leave of 10 weeks. However, has he ever asked for their reasons for doing so? Of course not. I think one of the major reasons is the additional financial burden these families have to bear with the coming of a new born baby. Under such circumstances, if they are not granted full pay and have to receive a smaller amount of wages for the leave, how can the families make ends meet? Therefore, under financial pressure, these female workers are forced to violate the law and go back to work without exhausting their maternity leave of 10 weeks.

What I am talking about now is a case involving two wage earners, that is, both the wife and the husband have to suffer a wage cut of receiving only four fifths of their normal pay, which will definitely add to their financial burden. They have to bear the additional financial burden brought about by the birth of their child on the one hand and suffer a wage cut on the other. This is really pathetic, is it not? The coming of a new family member should be a happy event but the parents have at the same time been made to shoulder a heavy family burden and I cannot help but ask: Why should they suffer? Furthermore, as I have pointed out earlier, how many times would a male employee or even a female employee be possibly entitled to paternity leave or maternity leave while he or she is serving the same employer? Since such leave are only taken occasionally, why should the rate of leave pay be pitched at four fifths of the normal pay instead of full pay? The Secretary should indeed reflect upon such issues.

When I said the Secretary has to reflect upon the issues, I am not asking him to resign from his office and I do not consider the problems warrant the Secretary's resignation. However, if the amendments proposed by Mr LEE Cheuk-yan or other colleagues are negated later while the original motion moved by the Secretary is passed, so that the arrangements of granting a three-day paternity leave on a rate of four fifths of the normal pay are to be implemented, I think a review has to be conducted by the Secretary so that every endeavour would be made to have paternity leave granted in a fair, just and reasonable manner. Paternity leave should not be granted in such a way that employees are treated well superficially with special leave granted to them to take care of their wife and the newborn, but are in actual fact imposed with other additional pressure and burden. This can hardly be regarded as a good thing. In gist, it is my hope that the whole thing would develop in the direction of providing male employees with a paternity leave of at least seven days on full pay.

Deputy President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, I remember that more than 20 years ago, I went to the Government House with my daughter in my arms to request for paternity leave. More than 20 years have gone. In these years, I feel agitated about Hong Kong because a lot of workers do not have even the basic rights and interests. Of course, in regard to paternity leave, we have moved a step forward. As to other rights and interests, for example, the difference between 17 public holidays and 12 statutory holidays, the phenomena of inequality have not been rectified yet. Besides, we do not have standard working hours. The minimum wage will only be under review once every two years. Nor do we have the right of collective bargaining. All over Hong Kong at present, the relationship between employers and employees is basically very imbalanced. The political power, including the power of this Council, is very imbalanced. The functional constituencies are monopolized by the business sector and by the influential and wealthy people. In regard to the Chief Executive election, even though there will be the so-called Nominating Committee in the future, it will be excrescent because it will again be a group of people from the business sector, influential and wealthy people, the elites together with the Central Authorities clique, deciding on who will rule Hong Kong. The entire society is basically unfair.

In such a community, it will take several decades for us to fight for an item of protection for the rights and interests of the labour sector. Paternity leave has been discussed for more than 20 years. Standard working hours has been discussed for more than 20 years, but no achievement has been made yet. There is no universal retirement protection. We have been fighting for minimum wage for 12 years and its implementation only started eventually in 2011, but there is no annual review for it yet. Hence, paternity leave is being discussed under the condition of power imbalance. As a result, it has become a product of power imbalance. What are the details? After lengthy discussion, the result is only three days' leave and four fifths of the wage. That is it. Civil servants can enjoy five days' leave only. That actually is not right. We think it should be seven days. Given that civil servants have five days' leave, I wonder why the same is not provided in the law, let alone seven days' leave that we should have.

This is all because of the power imbalance in the entire Hong Kong. After discussion, we can only get three days' leave and four fifths of the wage. In the Bills Committee, we have discussed many times and we asked for fully paid seven-day paternity leave. Hence we now propose an amendment. However, as we all know, Members from functional constituencies will very likely vote down this amendment. The power is already imbalanced. In addition to it, the division system of this Council is so deformed that this amendment will very likely be vetoed. However, being vetoed is not the worst. Just now I heard something that enraged me. Mr Tommy CHEUNG seems to say indirectly or directly that if this amendment is passed, the Government will withdraw the Bill. Does it want to repeat the situation in 1994? At that time, while the Legislative Council was discussing long service payment, the Government withdrew the Bill after Mr LAU Chin-shek's amendment was passed. Subsequently, Mr LAU Chin-shek was so angry that he resigned, and I then filled his place — I have to declare interest here. Does the Government want to repeat the incident? Why should this Government be so domineering?

In the discussion of the Bills Committee, this Government fully demonstrated its domineering attitude. When we mentioned that the Legislative Council Members would want to make suggestion and move an amendment to ask for seven days' paternity leave and fully paid leave, Secretary Matthew CHEUNG or the government representative immediately said that the proposal had to be submitted to the Labour Advisory Board (LAB). We have to ask: First, is the LAB above the Legislative Council? Second, the LAB has already discussed this and we all know the result of discussion. Why should any

amendment moved in the Legislative Council be passed by the LAB beforehand? This is the case every time, not only this one. The Labour and Welfare Bureau is so fond of playing tricks here. It just insists placing the LAB above the Legislative Council. But the authorities do not really respect the LAB. Frankly speaking, the LAB is only an advisory structure. Even if it wants to discuss some items, the Government may not be willing to discuss with it. The Government is the Chairman of the LAB. When the LAB needs the Government's respect, it shows none. But when it wants to play tricks and suppress the Legislative Council, it will mention the LAB. If this is not executive domineering, what is it?

Of course, some people say that the LAB is the representative of both employers and employees, and we should respect it. First of all, I state on behalf of the Hong Kong Confederation of Trade Unions (CTU) that the LAB election is extremely absurd. It is not a practice anywhere else in this world, and is also against No.144 of the International Labour Conventions, as the trade union with the most representation should be member of the LAB. What is meant by having the most representation? It is so absurd that each trade union has one vote. There is no such a system elsewhere in the whole world, as only the member system is adopted. However, under the "one trade union, one vote" system in Hong Kong, a large trade union has one vote, a trade union with only seven members has the same vote, and a trade union with tens of thousands members has one vote only. And then the election is carried out. As we all know, the result is determined by the large association, that is determined by the Hong Kong Federation of Trade Unions, and co-ordination will then be done by the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. A genuine election is not necessary. Everyone knows that. The LAB elected under this system will not have true representation. One labour representative cannot represent all trade unions in Hong Kong. Hence, this system is extremely absurd. No other places will give each trade union one vote. The authorities are suppressing the Legislative Council with this trick. The outcome of discussion by the LAB is three days' leave and four fifths of the wage. But the CTU definitely has not participated nor been consulted. Therefore, I have to state very clearly here today that all along we opine that it should be fully paid seven-day paternity leave.

There are some remarks made earlier that it is far too much to ask for fully paid paternity leave, as there are only four fifths of the wage for maternity leave. Mr Tommy CHEUNG is right in saying that if paternity leave can be fully paid, I

of course will ask for fully paid maternity leave. In fact, maternity leave should be fully paid. But that will involve another issue. We are unable to move a Members' motion now. If we are allowed to move a Members' motion in the Council, I would like to do so to request that maternity leave be fully paid for 14 weeks, as the practice of 10-week maternity leave and four fifths of the wage is already lagging behind the international standard. The international covenant concerned is the product before the 1980s. There is already a new international covenant at present which states that the maternity leave should be 14 weeks and fully paid. However, Hong Kong is still lagging behind ... Speaking of the rights and interests of employees, Hong Kong is always lagging behind. The reason is very simple: The consortia are extremely domineering and there is collusion between the Government and the business sector. They control and play with politics. The rights and interests of employees are always being trampled. It is as simple as that.

Therefore, the purpose that we fight for democracy and fight for genuine universal suffrage is to abolish functional constituencies and ask for genuine universal suffrage in Chief Executive election. In fact, it may eventually be fighting for four more days of paternity leave. However, even four more days of paternity leave is not possible now. Only four days! How much money is involved for four days? How much money is involved for three days' paternity leave that we are now discussing? According to the figures provided by the Government, 46 500 employees are currently being affected, which accounts for 3% of male employees. If they are given three days of paternity leave, the total sum is \$140 million, which is equal to 0.02% (two ten-thousandths) of the total remuneration expenditure. We are talking about 0.02%. Even for seven days, it is only about 0.04 percentage point. For the sake of such a small sum of money, we have to discuss with such difficulties. You can see how unfair this community is.

The Government always says it has to encourage birth of children. If it is encouraging people to give birth, it should provide 14-week fully paid maternity leave and seven-day paternity leave. The whole system is basically not encouraging people to give birth. However, that group of civil servants responsible for formulating the policy keep on encouraging themselves. They have paternity leave of at least five days, and the maternity leave is fully paid. They enjoy more days of leave than others. They do not need to be encouraged. Thus, I have to punish them. They should give birth to more children. When their welfare is so good and they do not give birth to children, they owe a lot to

society. Nevertheless, as to our workers, when they ask for just a small benefit, the Government will act like having a toothache. To us, this basically is not much money (only 0.02%). From this, we can see how the rights and interests of employees are being trampled.

Of course, we will support the amendments moved in due course. I also have another amendment, and I will later speak more of it. In simple terms, we hope that the protections given under all legislation are consistent. For maternity leave, sick leave, work related injury leave and the like, there is an additional compensation for illegal or unlawful dismissal, and this is not payment in lieu of notice nor severance payment. The maximum amount of this dismissal compensation is \$150,000, depending on the amount of loss incurred to the employee. This item of compensation is applicable to other leave of employees. Why is paternity leave excluded from this compensation? The Government always says that the situation of paternity leave is different because there are only three days. Will the employer dismiss the employee because of these three days? It may not happen. But the question is: Why could we not make the legislation tidy and consistent? In case there is such a problem, at least the employer will not recklessly dismiss a worker who is on paternity leave. Therefore, I have to move an amendment on this. I will talk more about this aspect later.

I have another amendment which can show exactly how ridiculous the Government is. Members may not notice that a line in the legislation says, "not more than 3 days". What is meant by "not more than"? "Not more than" can mean two days and can also be one day. The Government may later explain that this is not what it means. It may still be three days. However, they may explain — I will later see whether that is what the Government explained — If both employer and employee agree that it is a two-day leave, it will be two days. What is meant by "both employer and employee agree"? It is basically a "fake agreement". Under the high-handed condition where the employee cannot disagree, he can only accept two days or even one day of paternity leave. Perhaps that is not the Government's explanation. It may say that three full days have to be given. However, it may be a coincidence that while the employee is taking the leave, he has worked for less than 40 weeks or less than one month's continuous contract of employment. Then the leave will not be three days, but one or two days instead. These are exceptional conditions which can be solved without a clearly stated "not more than 3 days". However, when "not more than 3 days" is clearly written, there is a question in the legislation. If an employee

discusses with the employer and the employer forces him to take a one-day leave — the employer of course will say that he does not force the employee — they will argue whether the employee can take only a one-day leave. According to the legislation, paternity leave can be only one day. This will then generate a lot of appeal cases and the Labour Tribunal will be extremely busy.

Therefore, I think in this aspect, we should at least ... However, they will not listen. Members from the functional constituencies will vote down the amendment when they see my name, but this is really too much. They do not see the reasoning at all. My amendment is as simple as this: deleting "not more than 3 days" and substituting with "3 days". I hope that Members can see clearly later so as to avoid any dispute in the future. When a worker is forced to take less than three days' leave in future, he may then discover that this is allowed in the legislation. Even though the Government says today it is provided by law that it has to be three days' leave, and it has to be three full days although "not more than 3 days" is clearly written, this will not be interpreted as such in the lawsuit in future, then with whom can they get even? It is nowhere to get even. If they have to get even, they should get even with people in this Council, as we have a role in passing this Bill. If they have to get even with the Government, the government officials will be nowhere to be seen.

Hence, I opine that this amendment is also a necessary amendment. Nonetheless, that being said, the most important point of course is that paternity leave should provide a reasonable level of protection to the workers in Hong Kong, and can really help attain the goal of family integration. At present, we have already entered the age of "postmaterialism", in which we do not always talk about money or economic effectiveness. Can we talk about human values or family values? However, the Government only concerns about money but not families, and the social costs are all paid by workers. Thank you, Deputy President.

MS CYD HO (in Cantonese): Deputy President, it is said that the aim of this legislation is to encourage giving birth to children. However, no one will take up such a great responsibility merely because of that three days' leave with only 80% of wages. Frankly speaking, nowadays in Hong Kong, giving birth to children is a very irrational decision. Those who think prudently and think twice dare not give birth, let alone those who wants to follow the example of

Dr Kenneth CHAN, whose children can form a small football team or a female volleyball team.

In fact, three days' paternity leave cannot encourage giving birth. Instead, it can attain a very minor goal only, and that is taking care of the mother. The father can thus take care of his wife. Since the birth of the baby, the relations of the whole family will become those of two adults and a baby. The measure can only attain this very minor goal. However, in regard to this measure which aims at enabling a better family relationship so as to prevent the community from facing the problem of paying the price for worsened parent-child relationship in future, the business sector can actually be so resistant to it.

In fact, fewer problems will arise if family relationship is harmonious. When both parents can join hands to face the birth of their baby and the process of giving birth to their baby, the friction between them will be less as they have shared weal and woe with each other, and family relationship will become more stable. The price that the whole community has to pay will be less and employers will also be benefited. Why is the business sector so resistant to directly bearing the expenditure of merely 0.02%, which may only increase to 0.04% or 0.06%, of the total remuneration?

Dr Priscilla LEUNG said earlier that the process had to be gradual and orderly so that should "pocket it first" and should not propose amendments so soon, otherwise employers would be very worried. Nevertheless, according to the paper provided to us by the Government, only over 40 000 male employees have the opportunities to take paid paternity leave. Their three days' leave of 80% of their wages is only equal to 0.02% of the total remuneration expenditure. Even if the duration of the leave doubles, from three days to six days, the percentage is only 0.04%. Do Members know the rate of rental increase? Speaking of rental increase, it will never come in a gradual and orderly manner. It can even lead to closure of small shops. The rental of shops may increase by 20% at any time, and this is regarded as rare. Faced with these social phenomena, why do we not come forward and ask the owners to increase the rents in a gradual and orderly manner to avoid such drastic rates of rental increase? Why are we so mean to employees, but remain silent in front of the owners who have money and land, and who can make use of land to seek more interests?

Only a few Members are staying in this Chamber. I believe that not too many Members have ever entered the delivery room, and not all female Members have the experience of it. Those who have not done so may find it difficult to imagine the situation despite the advanced and well-developed medical science nowadays. The birth of a baby is still a matter of life and death. Even for a natural delivery, if the effusion of blood from the mother cannot be stopped after giving birth to the baby, it will turn from a joyous event into a tragedy. Hence, speaking of three days' paternity leave, what actually can be done properly in these three days? On the first day, he can pack the necessities for admittance to hospital with his pregnant wife, and then do various pre-natal preparatory work in the hospital. If labour pains continue over 24 hours, it will be the third day when the baby is born. Therefore, three days' time is only sufficient to witness the birth of a baby. The husband cannot even accompany his wife when she is discharged from hospital. He just has enough time to witness the completion of the process.

When we talk about post-natal depression or breast feeding in other occasions, everyone, male and female alike, shows support. But when it comes to the practical and actual situation, as well as the operating cost which needs to be increased slightly, people can be very resistant. In fact, the progress of the whole community needs contribution from each sector, and the benefits in the future will also be harvested by all of us together. But why do employers insist on paying 80% of the wages only when providing paternity leave of three days? Why can they merely accept providing paternity leave of three days, and are so unwilling to provide two more days?

The need for paternity leave will be more important in the coming 10 to 20 years, not only because the expectant mother needs the company of her husband during admission to hospital for both of them to face such a special process in life together, with mutual support as a start, but also because this will bring substantial benefits to the growth of the baby in future if the baby can immediately fall into the arms of the parents after birth so that the baby can recognize the odour and bodies of parents.

Many fathers grumble that their children always stick to their mothers and stay away from fathers. This depends on whether the father has the opportunity to hold the baby into his arms when the baby is born. If it is in the negative and only the mother has the initial intimate body contact with the child, the father's

part will really be missing in the child's memory. Therefore, to many male employers, this also concerns their own interests. I thus hope that Members can give their support.

Why did I say just now the need for paternity leave would be more important and imminent in the coming 10 to 20 years? It is because there are already a lot of "one-child families" at present. Before the transfer of sovereignty in 1997, the birth rate has begun to drop. The children born then are already more than 20 years old now. Under the circumstance that they are the only child in the family without other siblings, when they enter adulthood and face the question of giving birth, they do not have other support and have to face it by themselves. Hence, it will be a very important step for the couple to be able to enter the delivery room and witness the birth of their baby, and face the post-natal depression together after the birth of their baby.

Mr POON Siu-ping from the labour sector has mentioned that there are actually different ways to take leave. For example, can the first-time parents share the two kinds of leave together? Women can have the maternity of four weeks before the due date and six weeks after delivery, while men can have three days of paternity leave. If they really want to have more leave, can they share the two kinds of leave together? He has given the example of the United Kingdom as illustration.

However, other places do not take three days as the starting point. For instance, Nordic countries have two years of nursery leave. Both parents can take leave together or take turns to take the leave. It is not as short as 10 weeks (four weeks before the due date and six weeks after delivery) plus three days. Hence, if we illustrate with an overseas example, we should not mention one part only but leave out the other part. We should explain the whole picture. It is better that we can mention the child allowance in Finland, where a family can receive more than \$1,000 of nursery allowance every month after the birth of their child until the latter is 17 years old. If we talk about overseas examples, we should explain the whole picture and not only part of it.

In regard to this amendment Bill, Members have moved a few amendments and I support them all. The first amendment is to change the paternity leave from three days to seven days. I have just explained why three days are not sufficient, while seven days can only meet the minimum requirement. Besides, there is a provision on the period of notification. The original provision requires

the employee to serve notice two days in advance. During deliberation of the Bills Committee, I was the first one to ask the male official from the Department of Justice (DoJ) whether his family members had any childbirth experience. I believe that those who have such experience in life will know that the delivery date cannot be fixed beforehand. During initial pregnancy, the expected date of childbirth told by the doctor is only calculated according to a formula with reference to the previous date of menstruation. However, the growth of a person is not a formula. First, the date of conception may not be that accurate. Second, different fetus has different growth rate. Third, the date of birth that can really be accurately calculated may also be advanced due to external factors affecting the pregnant woman, such as incidents in which she has fallen down or has been frightened during pregnancy.

Therefore, the provision requiring the employee to notify the employer when to take paternity leave two days in advance is actually very absurd. Of course, if an employee does not intend to take paternity leave for accompanying his wife in the delivery room but for nursery purpose only, there is room for serving notice in advance. However, if an employee wants to accompany his wife in the delivery room and to witness the birth of his baby by taking the leave, this provision will be very absurd because we cannot predict the date. Only if a mother who plans for a caesarean delivery can the date of birth of a child be predicted. However, a mother who will have a caesarean delivery will be given a general anesthetic, and basically she does not need the company of her husband by her side. On the contrary, a mother who will have a natural delivery needs someone to accompany her. Hence, the ideas of the DoJ and the Government are basically fabricated behind closed doors. This is totally for the convenience of employers in arranging a replacement, and the actual situation of childbirth has not been considered at all.

It is fortunate that the Government has accepted Members' opinions and has proposed the amendment itself. However, more amendment proposals have not been accepted and this is very unfortunate indeed. Among such proposals are the increase in the days of paternity leave from three days to seven days, the increase in the percentage of remuneration received from 80% to 100%, and the protection against being dismissed, so that paternity leave can be treated equally with maternity leave. The Equal Opportunities Commission (EOC) also commends on this amendment. Nevertheless, the Bureau takes the Labour Advisory Board (LAB) as the excuse. Secretary Matthew CHEUNG keeps on

saying that the results do not come easily and we should value them, and that we cannot ask to settle the matter at one go as we have gone through a very difficult process. He hopes that we can treasure what has been achieved. I wonder whether Secretary Matthew CHEUNG will repeat saying that later.

Nonetheless, if he says that the LAB should be respected, I would ask whether the LAB has respected the EOC. Has the LAB respected the legislature which represents public opinions as in this legislature? At least half of the Members are elected by 3.5 million qualified voters. If this amendment is to be passed later, it actually has to go through a division. It can be passed only if Members from the functional constituencies returned by small-circle election also give their support. However, Mr Tommy CHEUNG has given a warning in advance that he will ask the Secretary to withdraw the Bill once the amendment is passed.

If the Secretary really withdraws the Bill, the executive authority will be just too domineering. Of course, such a remark from Mr Tommy CHEUNG also shows that Members representing the interests of employers are very domineering. It is really not easy for the amendment to be moved here and be passed through a division. Should we ask the executive authority to withdraw this hard-earned result which has gained the support from both public opinions and the sectors concerned? In this connection, I have to tell the Secretary that if these amendments can be passed later, I hope that the Secretary can follow the decision of the legislature and respect public opinions by enacting the amendments to the legislation which is hard-earned and passed through divisions.

The LAB will, of course, voice its opposition. Nevertheless, I also need to tell the LAB here that while it has to respect public opinions, it has to respect the EOC even more. We cannot let the legislature be replaced by an organization with half of it under the influence of the business sector.

Thank you, Deputy President.

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, I request a headcount.

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

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

DEPUTY PRESIDENT (in Cantonese): Mr Frankie YICK, please speak.

MR FRANKIE YICK (in Cantonese): Deputy President, I am not a member of the Bills Committee on Employment (Amendment) Bill 2014 but I still wish to express some views on behalf of the transport sector to which I belong.

In view of the low fertility rate in the present-day Hong Kong, it is only reasonable for the Government to implement paternity leave as a means to encourage childbirth and promote family-friendly policies, so as to enable male employees to assist in taking care of their postpartum partners and new-born babies. At present, in addition to the Government, certain private enterprises likewise offer paternity leave voluntarily as an additional employee benefit.

In fact, it is easier for large enterprises to deploy its manpower as they have a greater number of employees. Therefore, I would say the impact of paternity leave on such enterprises should not be too great. But the point is that more than 90% of the enterprises in Hong Kong are small and medium enterprises (SMEs) or even micro-enterprises. Since these enterprises already face the problem of tight manpower in their daily operation, they can hardly re-arrange their employees' duties. Due to their limited manpower at present, coupled with their recruitment difficulties arising from serious labour shortage, they will certainly find it difficult to comply with the additional requirement of implementing paternity leave. When an employee takes paternity leave, the employer must arrange another existing employee or recruit a temporary staff member as his substitute. But the problem is that it is difficult to recruit the suitable persons immediately for certain job types. For these reasons, paternity leave of only three days will still have impact to a certain extent on the productivity and competitiveness of enterprises.

The fertility rate of Hong Kong is low at present, and one child or at most two children are born in most families. This means that an employee will apply

for paternity leave once or twice at most. According to the Government's projection based on around 46 500 births in 2010 concerning the costs implications of paternity leave for enterprises, the labour costs of three-day paternity leave amount to some \$140 million, which merely represents 0.02% of the total labour costs. Statistics seem to show that the impact of paternity leave on the operating costs today should not be too great. But I wish to point out that this is only an average figure in Hong Kong, and small enterprises and micro-enterprises certainly face a different situation. And we must be prepared that today is just the beginning.

While government employees already enjoy five days of full-paid paternity leave, having considered the affordability of employers (especially SMEs), we tend to think that the option of three days seems to be more appropriate if we are to implement paternity leave. The reason is that as indicated by the findings of the Labour Department's questionnaire survey on paternity leave, around 80% of those private organizations which voluntarily provide paternity leave invariably offer one to three days of paternity leave. And, after taking account of the existing practice adopted by those private enterprises providing paternity leave on their own initiative and also the consensus in the Labour Advisory Board, we think that fixing the duration of paternity leave at three days is more appropriate. Besides, if employees on paternity leave are given 80% of their wages rather than full pay, then employers will not need to bear the entire burden of additional paternity leave expenses. I think this arrangement can balance the provision of this employee benefit and employers' affordability.

In fact, the transportation sector is worried about the manpower deployment during the three days of paternity leave. I am afraid that if we adopt Dr Helena WONG's amendment proposal of implementing as long as seven days for paternity leave at the outset, the industry cannot make the necessary arrangements due to insufficient manpower. Besides, I would like to make an appeal here. In the future, employees should inform their employers as early as possible about their intention to take paternity leave. Even if they do not do so three months earlier as proposed by the Government, they should at least allow their employers sufficient time to make appropriate manpower arrangements.

I hope the Government can first resolve the existing problem of labour shortage before implementing paternity leave. The unemployment rate in Hong Kong has persistently stood between 3.2% and 3.3%, which means that almost everybody is in employment. Many industries face manpower shortage, and this

problem is very serious in those industries requiring longer working hours or more intense manual labouring, such as the transport sector to which I belong.

The operators concerned often complain to me that they have recruitment difficulties. According to the industry, in the case of land transport, the China-Hong Kong cross-border freight sector faces a shortage of around 20% to 30% for drivers. Non-franchised buses (meaning "coaches") need 20 000 drivers, but they have persistently fallen short of hands around 10%. And, nearly 20% of the green minibuses are without any drivers at all because of the failure to recruit drivers. Besides, at present, the airport community and the logistics industry are still facing a shortage of around 5 000 and several thousand workers respectively.

In fact, human capital is a precious resource for enterprises. In the face of labour shortage, enterprises have already kept increasing their salary expenses. In addition to increasing employees' salaries, some financially capable enterprises have even provided their employees with such additional fringe benefits as marriage leave, birthday leave, and so on, in a bid to retain talents. Their intention is naturally understandable: They want to enhance their employees' sense of belonging, so as to avoid manpower wastage.

However, if the Government is devoid of any measure for resolving the labour shortage problem, enterprises can hardly provide their employees with the additional benefit of paternity leave even if they are willing to, as they do have difficulties in manpower deployment. Therefore, I hope that apart from stepping up talents training and launching measures to attract new entrants to those job types with serious labour shortage, the Government can also actively consider the importation of labour on an appropriate scale, so as to alleviate manpower shortage. In the long run, the Government should continue to promote the formulation of a comprehensive population policy, and increase the human resources required by various industries as a means to cater for the developmental needs of our industrial structure.

Deputy President, I so submit.

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

MR SIN CHUNG-KAI (in Cantonese): Deputy President, I rise to speak in support of Dr Helena WONG's amendments. Her amendments propose to amend the duration of paternity leave from three days as proposed by the Government to seven days, and to increase the paternity leave pay set at four fifths of the employee's average daily wages to full pay.

As everybody is aware, the young generation now think that having children will pose immense challenges to them. In the 1980s, the average number of babies born per woman was 1.9, and at the end of the last century, the figure dropped to merely 0.9. For various reasons, the average number of babies born per young couple has dropped from two to one. Some couples have even planned not to have any children at all.

Actually, the paternity leave measure is intended to reduce the pressure from livelihood on young parents. Parents all understand how messy and challenging their life is during the first month after the birth of their babies. Objectively, paternity leave of three days is honestly not enough. Basically, a pregnant woman can stay in hospital for three days after admission and delivery. Afterwards, she must return home, settle down and adapt herself to the new life. Therefore, even if paternity leave is as long as seven days, this is merely enough for the husband — the closest carer of the wife — to send his wife in labour to hospital and to, within three days, smoothly ... With the exception of a small number of pregnant women who have already made bookings for caesarean sections, other pregnant women in general are not admitted to hospital until the time of labour. After delivery, they will stay in hospital for two or three days before being discharged.

Actually, seven days of paternity leave is a basic standard, because some countries provide paternity leave as long as two weeks. Even Taiwan has already increased the duration of its paternity leave from three days to five days. Hong Kong is a city with pretty good conditions. Just now, some Members talked about the pressure faced by small and medium enterprises because of insufficient manpower. Let us look at the matter from the angle of the opposite side. Suppose an employee with the means intends to have children, the employer would like to offer some incentives to the employee to reduce his burden and hard work so that he will take care of his family first, lest he may not be able to concentrate on his work. Am I right?

Therefore, having regard to the present-day environment, we think that seven-day paternity leave can strike a balance and reduce the pressure on young or first-time parents from livelihood. The husband can spend the first three of the seven days on taking care of his wife in hospital. And in the two or three days that follow, he can make the necessary arrangements for his family. Amidst all the chaos, such first-time fathers can still be able to take good care of their wives and babies.

As to the Government's proposal to set the paternity leave pay at four fifths of the employee's average daily wages, I believe the reason is that the same computation approach is also adopted for certain types of leave under our labour laws. Therefore, the Government has proposed to adopt this computation approach for paternity leave as well. In my view, this is a rather mean arrangement. The Government can simply stipulate that employers must give full pay. Later on, the Secretary may reply that it is actually a statutory requirement to set the pay level at four fifths of the employee's average daily wages. In fact, many companies, especially large companies, either provide no paternity leave or offer full-paid paternity leave to their employees. I think the issue of paternity leave pay must be dealt with in the Bill, lest some companies may offer 80% of the relevant wages while some others may offer full pay. It will be more desirable to set out the requirement in law.

Secretary, I hope you can understand that the purpose of the two amendments is to alleviate the pressure on the young generation and encourage them to consider the idea of having children and forming families by reducing certain disincentives. As everybody is aware, the average number of babies born per woman is less than one at present; it is only 0.9. While the figure once climbed up slightly after 2008 and 2009, it then dropped again. As property prices remain high currently, the young generation cannot afford to buy properties. This, coupled with other factors, has led those young people initially intending to be parents to drop this idea eventually. The Government has said that it will conduct a review. But I think that even if there is no delay, the review can only be completed next year as it is already the end of 2014. I therefore do not believe that the Government will be able to introduce any legislative amendments even in next year on increasing the duration of paternity leave from three days to seven days.

I hope colleagues can support our amendments to the Bill. In particular, I hope that those in the industrial and business sector can take the lead to implement more family-friendly policies, so as to encourage the young generation to have children. I also hope that Members from other labour unions can likewise support the amendments.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, do you want to speak?

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, I support the Employment (Amendment) Bill 2014 (the Bill) as well as all the amendments proposed to it by Members.

Just now we have heard many Members talking about the history of paternity leave which is full of blood and tears. We have been striving for the paternity leave for a long time, and some Members have been fighting for the cause before they are elected as Members. However, we can see that the Government is not very willing to implement the paternity leave arrangement thoroughly by exerting pressure or pressing employers too hard. We know that it is due to pressure that the Government introduces this paternity leave, but the Government may argue that this is not the case and say that it has taken the lead in 2014 to introduce a five-day paternity leave with full pay for civil servants. However, if the amendment regarding the seven-day paternity leave with full pay is passed today, I cannot help but wonder if the Government will consider granting two more days for paternity leave to civil servants. This is because there is no reason for civil servants to have only five days for paternity leave when other employees can have seven days. Hence, I think the Government is not ... Let us put aside the issue with the Labour Advisory Board (LAB) for the moment. The Government is now using the LAB as a shield, but what will the Government do if there is no LAB or the LAB remains neutral? Will the Government support the seven-day paternity leave? I hope the Secretary will answer this question later on, but I am afraid this is indeed a tough question to answer. If he says he supports the seven-day paternity leave, then he should change the civil servants' paternity leave period to seven days. I believe the civil servants will all agree to that.

It is not until this year that the Government finally put forward a Bill in this respect, and the Bill only states that male employees can take not more than three days for paternity leave at four fifths of their daily wages. We certainly consider such a provision not good enough to serve any purpose. The Government has mentioned at the meetings of the Bills Committee that it hoped Members could accept the Bill in the first place and refrain from proposing any amendment to stir up trouble. The Government has even said that if any Member should propose any amendment, the Government would submit the amendment to the LAB for discussion; and that it had no idea how long the discussion would take and when the Bill would be submitted again subsequently. Today, it seems to be saying and some Members have also hinted or indicated that if any amendment should be passed — I have no idea if that would happen or not — the Government would withdraw the Bill. Hence, Members from the Hong Kong Federation of Trade Unions consider that we should not stir up trouble, as many people are waiting for this Christmas present. We should let these male employees or fathers to pocket the Christmas present first. As such, I believe when the seven-day paternity leave amendment is put to vote, these Members will either cast an abstention vote or leave this Chamber. In the event that the amendment can get over 50% affirmative votes from the functional constituencies and the Government withdraws the Bill subsequently, there will be no Christmas present and nobody can pocket it first. Nevertheless, if Members really want to have the Christmas present, they should remain in this Chamber to avoid abortion of the meeting. Otherwise, there will be no Christmas present and the present will not arrive until the Lunar New Year.

We certainly support extending the period of paternity leave from three days to seven days. However, if Members consider seven days "too greedy", why do they not propose some other amendments, such as four days or five days? Have they ever tried to fight for every possible improvement, or they just surrender and accept whatever the Government offers? If they do not accept, they will have nothing. To put it bluntly, they have to accept it even if the paternity leave period is only one day, otherwise there will not be any paternity leave. Indeed, following the changes in society and the drop in birth rate, modern parents are providing their children with much better care than our parents did when we were kids. Back then, we were let to develop on our own. As I can recall, when I was a toddler, the milk bottle was laid next to me and I had to hold it in my hands to drink the milk. Sometimes the milk spilt to my feet and cockroaches would come to lick my toes. In short, parents would take care of their children meticulously. Moreover, as the two genders are becoming

increasingly equal, it is not solely the responsibility of the mother to take care of the child, and therefore paternity leave should be granted to the father. Furthermore, as we all know, women are much weaker physically in the first two months after delivery and are subject to various kinds of biological and psychological stresses. If they cannot get enough support from their family members, it is easy for them to develop emotional issues which will in turn lead to other social issues such as post-natal depression, child abuse or even suicide, and so on. In considering the social policy as a whole — the Secretary is also responsible for welfare matters — should the Government not think about some precautionary measures to prevent the emergence of such problems?

We have always talked about family-friendly policies, but Hong Kong's family-friendly policies are in fact lagging far behind other places. In particular, as cost of living in Hong Kong remains high and our birth rate has been on the low side for many years. The paternity leave is indeed the first step, and what issue should be addressed as the next? The acute shortage in nursery services. About the next step, I am afraid we need to ask Secretary Eddie NG, as we need to have whole-day kindergarten and long whole-day kindergarten policies to achieve the so-called family-friendly objective to help encourage childbirth. The Government's Steering Committee on Population Policy is also talking about measures to encourage childbirth, but what have been said are but empty promises. The Government is just paying lip service to encourage the people to have children. Have it put forward any measures to encourage people to have children or help them have children? What the Government says is one thing, but what has it done specifically? In reality, the Government is tilted towards the business sector, and most wage earners can only enjoy 10-odd days of annual leave. They can hardly find enough time to take care of the pregnant women or their new born babies.

Let us take a look at the paternity leaves in different countries of the world. The leave periods range from three days to 10 days. The United Kingdom has the longest paternity leave period which lasts 14 days, whereas the leave period in Sweden is 10 days. As for our neighbour Japan, the male employees there can take paternity leave of five days. I will now move on to the four small dragons of Asia. South Korea offers three days of paternity leave with pay and two days without pay, whereas Taiwan offers three days with full pay. As regards Singapore, out of the six days for Childcare Leave, the wages for the first three days will be paid by the employers concerned while those of the following three days will be borne by the government. Actually, there are many different kinds

of arrangements and combinations we can make reference to. Among the four small dragons of Asia, we are the one lagging far behind in this respect. As regards African countries, the period of paternity leave lasts three days in Angola, four days in Uganda, and two weeks in Kenya.

The business sector always claims that paternity leave will cause their operating costs to increase, and some Members have even opined that the leave might cause firms to wind up. Actually, they will say no to whatever measures that may cause the cost of production to increase; they will keep saying that the measures will cause their business operations to wind up. For instances, they have claimed that the sewage charge would cause their operations to wind up, and so would the tobacco control and minimum wage. They are now claiming that implementing the paternity leave will cause their operations to wind up. However, have all their business operations wound up now? All along, the huge operating cost is attributable to the high rent level under the real estate hegemony. The problems they have claimed, such as manpower shortage, insufficient time to get prepared, inability to afford the leave, and so on, are all being exaggerated. After all, the leave period is but two to three days while employees may take sick leaves that last the same duration. Moreover, will all female employees get pregnant during the same period? Will all male employees of the same company say in the same period that they have to take care of their pregnant wives? Hence, we can see that the claims of the business sector are but the worst scenarios. In the view of employers, employees who take leave are trying to take away a part of their wealth, and that is why employers keep saying things to scare employees. According to the figures provided by the Government, among the non-government organizations, the number of male employees whose partners have given birth to children in 2010 amounted to 46 500, representing 3% of all male employees in Hong Kong. The labour cost of these male employees taking three-day paternity leave is around \$140 million, which is 0.02% of the total payroll cost. As such, this sum is just too trivial when compared to the economy as a whole. Moreover, the male employees will not take paternity all at the same time.

According to the Secretary, the three-day paternity leave is a policy to encourage childbirth. I think he is exaggerating the result of this policy. Will those people who do not intend or still considering whether they would have children decide to have children or one more child just because these three days or seven days for paternity leave? I do not think so. At most the Secretary can only claim that this is a kind of reward to those who are willing to have children

under such unfavourable circumstances. This measure is just to provide the employees concerned with leave days to take care of their wives and children when such need arises. Even though the Government claims that this is a policy to encourage childbirth, I would say I do not encourage people to have any children if someone should consult my opinion. The environment of Hong Kong is too risky. When we look at our economic conditions, social structure, political factors, or the opportunities for moving up the social ladder which we will debate later, we can see that they are by no means favourable for child bearing. Certainly, if any people still intend to have children, the Government should offer them some support. Nevertheless, I have to warn everybody to think twice before deciding to have children. The three days or seven days for paternity leave are certainly not a form of incentive. Even if the Government offers a \$10,000 prize for giving birth to a child, one should not be allured to have children. This is because the children will be held by the Government under LEUNG Chun-ying as hostages. Eventually, these children have to sleep on the street and beaten up by the Police. What is more, the Government will condemn parents for failing to teach their children and render the children "useless youths".

Apart from that, I would also like to speak on another issue, which has also been referred to in the Bills Committee Report. The focus of the Bill we are discussing today is paternity leave, and this is highlighted in the objective of the Bill, which is to provide for a male employee's entitlement, in respect of the birth of a child of the employee, to paternity leave. In other words, if the mother's partner is not a man but a woman (the same-sex partner of a lesbian), that partner will not be entitled to paternity leave and will not be benefited under this Bill. The Government has explained in its reply that the female partner of a woman who has given birth to a baby cannot be recognized as the "father" of the baby — because of her gender — and cannot be named as the baby's father on the birth certificate issued by the Hong Kong authorities. As such, the female partner of a pregnant woman does not have, under the existing laws of Hong Kong, the legal rights and responsibilities of a father towards the child. Extending the paternity leave benefits to the female partner would be at odds with the family law of Hong Kong.

According to the Government, it has consulted the Equal Opportunities Commission (EOC) and the EOC is of the opinion that since there is no legislation on sexual orientation discrimination, the Government's proposed paternity leave will not contravene any discrimination legislation currently in force. However, the Government has only referred to the first part of EOC's

view. According to the second part of EOC's view, in terms of general equality, the same-sex partner may be regarded as being in a similar position to a father who has to take care of the newborn and the mother around the time of childbirth. In other words, apart from a father and a mother, the newborn can have two mothers instead, as we all believe that the newborn need one more care-giver and the woman who has given birth to the newborn also needs someone to take care of her. According to the ECO, it would advance equality in general if similar leave could be given to the same-sex partner of the mother.

I also wish to point out that when the Government reviews the implementation of the paternity leave, it will really consider things from an "equal rights" perspective, as the marriage system is by no means challenged by this paternity leave. At present, the father and mother of a baby do not have to be in a marriage, and the law does not require the father to have any genetic linkage with the baby. On the contrary, for two women in same-sex relationship, the same-sex partner may have genetic linkage with the newborn. I have seen cases in which the egg growing inside a pregnant woman is in fact the egg from her same-sex partner, as the egg is put inside her upon fertilization. I hope all business operators, big and small alike, will not put forward some fallacies as their argument, thinking that we are trying to take away a part of their wealth by advocating labour rights for the sexual minorities. As I can recall, at a meeting of the Bills Committee, Mr Tommy CHEUNG once said that if same-sex partners were also granted paternity leave with pay, some transsexual persons might try to get the leave by fraud. He said, "If I change my gender and become a man, I can enjoy paternity leave even though the baby is not mine biologically. After I have changed my gender into male, I can enjoy a few more days of paternity leave. From now on, any woman who give birth to a baby and writes down my name as the newborn's father even though she knows I am a transsexual person, I can have a lot more leave days." I just hope he has said these words out of ignorance or lack of knowledge, rather than being mean and unsympathetic. I said in reply at that time, "A woman does not need to change her gender into a man to get the three-day paternity leave by fraud because she can give birth to a child to get maternity leave which stretches 'four weeks before and six weeks after' the confinement day."

Hence it is my hope that when Members discuss issues concerning labour benefits, they will take into account the factor of equal rights for people of different sexual orientations. I also hope that employers will not believe that

their employees will deliberately find a boyfriend, change their gender or get married to get medical benefits or other benefits by fraud. Employers should not think that whenever any new item of employee benefit is introduced, their employees will resort to all kinds of fraudulent measures to get such benefit from the company.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, your speaking time is up, please sit down.

MR ALBERT CHAN (in Cantonese): Deputy President, I have not participated in the scrutiny of this Bill, nor have I contributed much to the relevant discussion in general. But I would like to give my 100% support to the introduction of paternity leave.

Just now I heard some Members, particularly those from the Hong Kong Federation of Trade Unions (FTU), talking about how they have successfully fought for the amendments to the Bill. They talked as if this was a great contribution made by them, an enormous welfare benefit or bestowal granted to male employees with mercy from the king. I could only shake my head after hearing their speeches and was extremely disappointed with these so-called representatives of the labour sector.

Many people are naturally happy about the introduction of paternity leave, as this would mean having a break for a couple of days. But we can look closer to find out what exactly is this three-day paternity leave. If the employee concerned is a grass-roots worker or working class man, he may only be paid \$30 to \$40 an hour. So his wages for these three days may only amount to about \$1,000, roughly the price of three cans of milk formula.

Providing a benefit at the cost of three cans of milk formula is bragged as if it was a big mercy bestowed from the king. The Government is now encouraging and giving incentives to Hong Kong people for having babies, as Hong Kong's population is now on the decrease, with the number of births exceeded by the number of deaths — if the 150 compatriots imported from the Mainland on a daily basis are excluded from calculating. The incentive that the Hong Kong Government gives to Hong Kong families for delivering their babies

locally is merely \$1,000. How can this be regarded as a big mercy from the king? Is this really an important benefit and a big mercy to the working class? The labour sector should be ashamed of itself.

Deputy President, I cannot really see FTU-affiliated representatives of the labour sector in the Chamber. I request a headcount under Rule 17(2) of the Rules of Procedure.

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

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

DEPUTY PRESIDENT (in Cantonese): Mr Albert CHAN, please continue with your speech.

MR ALBERT CHAN (in Cantonese): Deputy President, as I said just now, the Employment (Amendment) Bill 2014 which proposes to introduce paternity leave of three days at an estimated cost of less than \$1,000 is already bragged as if it was a big mercy handed down from the king. Members representing the labour sector sound as if they had secured an utmost benefit for the sector and now have to sing praises to the Government for the stately bestowal. To me, this is definitely not an attitude appropriate to representatives of the labour sector. Hong Kong is such a prosperous and advanced place that we should strive for labour benefits which are on a par with the other advanced areas and societies.

Let us look at the situations elsewhere. In Northern Europe and Canada, the length of parental leave is one year, that is 365 days. Spouses in many places are allowed to discuss among themselves how to take that one-year parental leave. The couple can divide the 365 days into a 7-3 split, a 5-5 split, or let the woman take the entire amount of leave. This is basically left to the full discretion of the couple by mutual consent of their own, with regard to their needs and the actual circumstances. The couple can possibly decide to let one of them take 365 days of leave. This is the parental leave policy currently practised in civilized, advanced societies, and for a number of years in some cases. In Hong

Kong, upon getting these three leave days which cost only a few hundred dollars, less than a thousand dollars, good for buying merely two to three cans of milk formula, the labour sector wants to kowtow and sing praises to the Government, as though a big mercy had been granted from the king. Such an attitude must be condemned.

We have to condemn an unscrupulous government and a group of unscrupulous employers who persistently exploit the legitimate rights of the working class in Hong Kong. Such is the appropriate attitude to be upheld when fighting for labour rights, but not kowtowing to the Government. Paternity leave for employees is a legitimate right and it should not be confined to three days. What is most appalling about these representatives of the labour sector is ... Some Members from the democratic camp propose to revise the three leave days to seven, in the pursuit of a slightly better benefit. However, other people are enjoying 365 leave days whereas in Hong Kong, even if we add the three days to the existing 10 weeks, we only have 73 days. Would we not find it a loss of face as their 365-day entitlement is five times of ours? Mr Matthew CHEUNG, as the Secretary for Labour and Welfare, would you feel ashamed? People in other places enjoy 365 days of parental leave, but Hong Kong people can only have 70 plus three days, that is 73 days, one fifth of those enjoyed by others. You see how dreadful this Government is.

Although you only propose a leave of three days, many people would rather "pocket it first" — it is now a big trend to "pocket it first", both in terms of the constitutional reform or otherwise. What we had "pocketed" before were however lost due to the support from the Democratic Alliance for the Betterment and Progress of Hong Kong and the FTU. This is the collective bargaining right, a right which had been secured during the British Hong Kong era but was scrapped away by the Provincial Legislative Council, a right which we had "pocketed" but eventually have to surrender. This is a world of the rich and powerful, who have full control of everything. Even representatives of the labour sector are now their running dogs and hatchet men who confiscated the collective bargaining right that we had "pocketed". Now some Members from the democratic camp propose to increase the number of paternity leave days from three to seven, and how does the labour sector respond to it? They say, "I am afraid this might provoke the Government to withdraw the proposal," hinting that they do not support the amendment put forth by the democratic camp. When the Government threatens to withdraw the proposal, you should persist in pursuing

the cause with them. When striving for labour rights, representatives of the labour sector should insist on making protest instead of begging. Why should you kneel down when the Government threatens to "withdraw" the proposal? If you do it this way, how can there possibly be labour rights and benefits?

Recently, a major labour strike in Belgium has consequently paralysed the entire public transport in the city. In striving for its rights, the labour sector may have to, when circumstances so require, resort to striking so as to flex its muscles. If you kneel down and beg for mercy time and again, does it mean that you are a beggar? Is it the job of a representative of the labour sector to beg for the sector? The labour sector is not going to respect you if you resort to begging as the tactic.

Deputy President, in this Chamber, this Council and under this system, the labour sector should stop fantasizing that the so-called labour representatives are going to fight for your rights. After all, it is the young students who really stand out. Look at their declaration of class boycott made on 22 September and we can see how they are speaking with dignity and integrity — we have to disobey, we cannot put our future in other people's hands, we have to grasp our future in our own hands and let us alone decide our future. Have representatives of the labour sector read the Communist Manifesto by Marx and Engels? What did they say in the Manifesto? They appealed to labour all over the world to unite and break the shackles together. You are however not doing that. Representatives of the labour sector instead impose another shackle to the people and suppress the working class in Hong Kong on behalf of the autocracy, the rich and the powerful. This is the attitude and approach adopted by the leftist labour sector in Hong Kong.

Therefore, I appeal to all of you to see through the absurdity of this Council, the absurdity of the deeds of these representatives of the labour sector in Hong Kong. The labour sector in Hong Kong is no longer ... See what CHENG Yiu-tong has said recently. CHENG Yiu-tong is an FTU representative, a Member of the Executive Council, and he has said that LEUNG Chun-ying is now sitting pretty in his stable chair. The Chief Executive who suppresses the working class continues to rule with the assistance of CHENG Yiu-tong, a leading figure at FTU. This is the wicked nature of the representatives of the labour sector in Hong Kong. Take a good look at them, Hong Kong people!

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, this is actually a world of hypocrisy. I have said that women and children are the ones who been cheated most often in this Chamber as they have been frequently used as the pretext by hypocrites. At the time when a person is born, the one who suffers most of the pain is not the baby. The baby may not have any feeling at all, but the one who suffers most of the pain is the mother. For that reason, as far as birthday celebration in the West is concerned, birthday is actually the day to commemorate the tribulation of mothers in our tradition. We should bear in mind the agony of a mother when she bears her child, including the chance of maternal mortality she may face during childbirth due to a difficult labour.

Deputy President, I have repeated many times regarding the things that a government should do. Let me take the legislature as an example. Of course, our legislature is of no use, as it can do anything except turning a man into a woman. That is to say, they can easily turn the current paternity leave entitlement of male employees from three days to seven days, or to turn the 80% pay into 100% pay. It is quite easy to accomplish. Let me cite another example. Just now Mr WONG Kwok-hing showed all the emotions in his speech as if Hong Kong had implemented the unemployment compensation scheme if one was merely listening to his speech. He stressed that when he was fighting for the entitlement, he was just like a sleepless mother caring a baby all night long, as if his suffering was even greater than that of a pregnant mother who has to bear the child in her body for 10 months.

However, I wish to use a male employee earning minimum wage as an example. If he is given a three-day paternity leave and gets 80% of his wage, the amount is actually just \$576. May I seek the attention of the Deputy President that among birth, old-age, illness and death, illness often happens, but death occurs only once and childbirth in the modern society occurs twice at most. Many labourers' families dare not to have a second child. That is to say, a labourer feels very much indebted with reverence and awe, while Mr WONG Kwok-hing was speaking in tears and boasting that he was bargaining so hard, to the extent that his teeth were bleeding. However, it turns out that these people earning minimum wage only get a benefit of \$560 in their entire life. If I use the "14K" theory, that is, a monthly income of \$14,000 as the villain LEUNG Chun-ying puts it, because he says that people earning a monthly salary below \$14,000 are poverty-stricken people, thus I use \$14,000 as the median wage, then these people can only get as much as \$1,120 throughout their lives. If someone is going to have another child, then of course he could get twice as much as that

sum. However, will a person be that stupid to have a second child for the sake of getting something a little more than a \$1,000? The answer is no. Therefore, if we are really going to reform this policy, then the amount paid by employers is really so meagre that even if we really change the current three-day paternity leave to seven-day paternity leave, and then make it full-pay, the additional cost that an employer has to pay will be no more than \$1,000, or just about \$1,000.

Deputy President, some Members say the amount is too small. In fact it is just once in a year. If you respect your mother, how can you not respect the husband of your mother? They are so in love with their wives that if they are so impoverished or they cannot get the leave, they would be dismissed and they can no longer take care of their loving wives. For that reason, when we talk about childbirth, we need to care about the mothers, and of course the children are equally important. In our society, we always chant in praise of motherly love, and there is this Mother's Day, but we do not understand that each birthday is actually the day to commemorate the tribulations of mothers. Deputy President, as far as this matter is concerned, as to the question that we attach no importance to mothers ... I always say that "Deputy President, could it be said that I have mother?" This society is really too heartless, especially when employers are really too heartless. Could it be said that they had no mothers? If they have mothers, of course they will appreciate the greatness and tribulations of mothers and will not be too tight-fisted in the granting of these paid leaves to workers, which could only be enjoyed once or twice in their life.

Honestly speaking, if we measure it with one's life time, we shall divide this sum of salary into 30 years. How much should this employee get each year? In one year, an employee who earns a monthly salary of \$14,000 will get \$1,120, if it is divided into 12 months. Actually the employer only pays an additional amount of \$100. In milk formula terms, it will be nothing more than one or two cans of milk formula. Have we not always said that we have to increase Hong Kong's population and improve the demographic quality? Secretary Matthew CHEUNG, every mother who laboriously gives birth to her own child does not bear a child for herself only, but also for providing a part of the productivity to society. If Mothers stop giving birth to children, we will lose our workforce. Deputy President, from this point of view, this is not only discrimination against women and mothers, but also workers. Are employers treating workers as workhorse? After women giving birth to a living member of the work force, they will be exploited by employers when they have grown up. To make it pleasanter to the ear, this is creating wealth for society. However, when mothers

have to go through these tribulations while fathers are trying to love and care these mothers, employers are still so particular about trifle.

After delivering this lengthy speech, I wish the Secretary to reply if he really means that if the duration of paternity leave is to be revised into seven days, he will withdraw the whole Bill? Can he do me a favour by turning himself into a man again by answering whether he has really said this? If he has, I should tell LEUNG Chun-ying to go to hell immediately. He is now bargaining with Members of the Legislative Council; he keeps on haggling over every ounce, but does he think that he is bargaining with us? Actually, he is bargaining with all mothers and the working class.

As regards LEUNG Chun-ying's maladministration, he would say, "The Umbrella Movement is a result of a lack of upward mobility among young people." It is nonsense. I am telling him that it is a result of the existing corrupted system.

Secretary, I have asked you this question: According to our laws, the Basic Law and the Employment Ordinance, why can the Labour Advisory Board (LAB) have a decisive say? That is, no legislation can be enacted without an agreement reached within the LAB. This corrupted system is just like this legislature, where the minority oversteps its authority by devising a system which will decide the fate of the majority. The LAB is founded on this system, and this is the result of the transplantation of the LAB system to the political structure. In an opaque election system, people never know where the mandate comes from, but the authority is so massive that it will easily become a rubber stamp, because you are chairing the LAB, right? Each time the working class asks for some improvements of their livelihood, seeks relief from the legislature or asks us to legislate for their protection, their demands are always distorted by this corrupted system.

Deputy President, the Hong Kong Federation of Trade Unions (FTU) is a workers' organization. I met a tram worker who said mournfully one day during the Umbrella Movement, "I cannot work overtime because you people are obstructing the tramway, making the trams unable to operate. How can I work overtime? How can I feed my family?" At that moment, I considered him ridiculous. Has the FTU not been upholding a well-bred tradition of class struggle? The FTU organized the 1950 general tram workers strike which shook the entire Hong Kong society. They had a standoff with the anti-riot squads at

Russell Street depot, that is, what is the name of the present-day square? It is in Causeway Bay, I have forgotten ... The Times Square, yes, they were brawling at Russell Street, where the present-day Times Square is located. In order to protect the working class, to ask for a pay rise, to safeguard the rights of the unions, they clashed with the British Hong Kong's anti-riot squads, and their leader was deported eventually.

Now the same FTU says, "You are fighting for universal suffrage and blocking the roads; you are making people jobless and you are no good." It even instigates workers to say this. It reminds me of a story, Mr LU Xun's fiction, *Medicine*. In that story, a revolutionary member was beheaded. Someone surreptitiously had his steamed buns dipped in the martyr's blood as he thought that the buns might cure the sickness of his son. At that time, people thought that the blood of a beheaded person could cure tuberculosis. This is the case of that tram worker. It turns out that his salary is so meagre that he cannot subsist, and thus he needs to work overtime. He has to work overtime every day in order to subsist. But the union will not fight for him; it leaves him on his own. Frankly speaking, even if he could subsist, he would die young because God has set down the timetable. You will die young if you overload yourself with work. How can a trade union be like that? It considers that workers should work overtime in order to earn the money, thus the system should stay. If someone stops them from working overtime, to them it is a sin. Deputy President, on this point, I consider that it demonstrates the words of this "big-mouth dog" of FTU, Mr WONG Kwok-hing, who is indeed very ugly. He is just a clever speaker who maintains a contrived smile. He just acts according to small-minded wisdom. If I should add one more line, that is, he is seldom considered to be a really good person, that is to say, he has no mercy at all.

Deputy President, another FTU figure is called NG Chau-pei, not "NG Chau-tak", but NG Chau-pei. To one's surprise, he spoke in a radio interview and said that since young people in Hong Kong were fighting for universal suffrage in such an extreme manner, society should forsake them. Hey buddy, what does it mean by "forsaking them"? Deputy President, do you know what it means by "forsaking them"? I really want to ask NG Chau-pei, "Should we imitate the Mainland's Anti-Rightist Campaign by sending young people to camps in the Great Northern Wilderness for 25 years? This was done to forsake them or put them in exile. Should we send them to the labour camp? Or should we implement Re-education Through Labour in Hong Kong so that they can be

disciplined and locked up in labour camps to work for three years without trials?" What does it mean by "forsaking them"? A person who is genuine in rescuing the lives of others never gives up any person. All of these remarks only show how detestable the FTU leaders are. They are extremely hostile to young people, in particular poverty-stricken young people.

The majority of people accused by him for participating in the Umbrella Movement are either people who dislike social injustice as they will fight for justice even if they have money, while more of them are young people being oppressed in society. For a trade union leader saying such words, he is simply less than human. I hereby condemn NG Chau-pei for being less than human! Even LEUNG Chun-ying will not utter such words. Even LEUNG Chun-ying will hypocritically say, "President XI, it has nothing to do with my ability. It is only because we lack upward mobility in Hong Kong. I will look into that." This NG Chau-pei behaved in a manner that the emperor was not worried but his eunuch was.

Deputy President, after all, today the Secretary is trying to levy blackmail upon us by intimidating us that if we propose a seven-day paternity leave, he will withdraw this Bill. This Government is so shameless. The fact that Mr WONG Kwok-hing urges us not to fight for the right shows that the FTU has no backbone at all. Deputy President, I hereby condemn Matthew CHEUNG loudly! I hereby condemn LEUNG Chun-ying loudly! I hereby condemn NG Chau-pei loudly! They take the lead to discriminate against mothers, mothers of the working class and substitute struggle with begging.

Deputy President, thank you.

DR KENNETH CHAN (in Cantonese): Deputy President, since its inception, the Civic Party has always supported and promoted the policy for paternity leave. Therefore, we support the Second Reading of the Employment (Amendment) Bill 2014 (the Bill). Of course, many Members who are from the labour sector or related sectors have joined the Council well before the Civic Party came into being, and have been promoting paternity leave for years. We do not intend to take credit. We only want to tell our constituents and supporters clearly that the Civic Party wishes to see the social system and policy in this regard develop in a more righteous direction.

Furthermore, the Civic Party will also support the amendments proposed by the several Members, for instance, to increase the number of days for paternity leave from three to seven; to bring the amount of pay to which male employees on paternity leave are entitled from four fifths to 100%, as well as Mr LEE Cheuk-yan's proposal to prescribe clearly the actual number of days for paternity leave instead of stating that there will be no less than three days.

Deputy President, after listening to the debate for the day, I feel disturbed in several areas. First, Hong Kong always emphasizes its low tax regime under which businessmen need not pay hefty taxes. If this is the case, should they not assume more responsibility, instead of haggling over miserly whether paternity leave should be three days, five days or seven days? Also, they should not follow the footsteps of the Liberal Party to menace — or menace on behalf of the Government — that if the leave lasts more than three days, they will vote against the Bill and the Government will withdraw it.

Why is there such a political party? They are giving their reasons from their stance as employers or the business sector. Hong Kong is a diversified society. There is nothing wrong about having different views, so long as each party makes itself clear and convinces the other. This Council only supports proposals which ensure the rights and interests of the wage earners. Does the Liberal Party have to be so furious when we are merely lending a little assistance to those who may be first-time fathers or fathers of subsequent children? If this is the intention of the Government to threaten the Council or the public with the help of Mr Tommy CHEUNG or the Liberal Party, it is really a crafty and despicable move.

Then, the Labour Advisory Board (LAB) is being used as the shield. The Council has its constitutional status. Its constitutional function is to gather, reflect and address public sentiment. We are now in a solemn and prudent process of scrutinizing the Bill, and our colleagues are also following a careful procedure in accordance with the legal requirements in proposing pertinent amendments. The legislative intent and wordings have been finalized after careful consideration. This is no casual decision. Otherwise, we will not have this debate today.

Thus, this Council has its prominence and it is not passing the buck to the LAB. Furthermore, the composition of the LAB is also under fire. Earlier, a

Member said representatives of the LAB are not chosen by "one person, one vote", and its Chairman is a government official. I respect the proposal made by the LAB to give three days for paternity leave upon negotiation, but it should also respect the constitutional function of the Council. We will fulfil our duty and put forward what we consider to be a better arrangement for the wage earners. We will not allow the Government to adopt any disruptive unorthodox approach.

Everyone with a conscience will know that seven days is better than five, and five days is better than three. The reason is crystal clear. Why do the colleagues from the Hong Kong Federation of Trade Unions have to make themselves so miserable? Why do they ask us to pocket it first, with the hope that the Government will soon conduct a review to avoid claims afterwards? As pro-Government Members, their fate is sometimes rather bumpy. Why do they not fight for it with reasons? Why must they look for excuses? Why must they say that if we insist on having seven days, the Government will withdraw the Bill and there will be no Christmas presents?

As a leader of labour unions, taking justice into consideration, I am of the opinion that the duration of paternity leave should be increased from three days to seven days. How many wage earners will really abuse this benefit? It is beyond imagination. Birth rate in this society of Hong Kong is low. Will wage earners keep fathering children just for the leave of seven days? Will there be wage earners who will wangle this leave? Do you know how much money is needed to raise a child in Hong Kong? Of course you do. Having a child is no easy decision. No one will abuse this benefit just because he can have a leave of seven days. When I heard Members from the business sector said so at the meetings of the Bills Committee, I was dumbfounded.

When a couple decide on whether or not to bear children, or how many children they would like to have, they have to consider many factors, including whether the employer treats his employees well. If the business sector really wants to co-operate with the Government in its population policy, it should staunchly support giving seven days for paternity leave, as only such a move will help the Government. My employer is the Hong Kong Baptist University (HKBU) which is a non-profit making institution. The HKBU treats us well. It has in place measures which encourage child-bearing, including providing employees with education and medical subsidies. These are all conducive.

My first child was born in Oxford, Britain. At that time, I was still studying for my doctorate degree. In Britain, the tax rate is of course higher than that in Hong Kong, and the British Government provides subsidies for children. I remember that my eldest daughter was born in 1996. I filled in a form and received £16 every week for buying diapers, milk powder, second-hand baby crib and pram. Although the tax rate in Hong Kong is low, our Government does not provide such subsidies. Now, we are asking for a leave of seven days only. What problem is there? Why must they be so mean? If the Government has vision, it should embark on conceiving some constructive measures to address the entire imbalance in demographic structure or the ageing problem of Hong Kong. Although the provision of paternity leave is by no means the only solution, as it still has to hinge on the attitude of the employers and society's overall situation and atmosphere, which include future expenses in terms of living, housing, education, medical and retirement protection, it will absolutely help. Unlike some Members, I will not say paternity leave alone can encourage child-bearing, but this is really of some help. Since it is the intention of the Government to encourage Hong Kong couples to give birth, I do not think that asking for paternity leave of seven days is excessive.

Deputy President, maybe due to the fact that I have several children, many colleagues mentioned me. Some colleagues said that it was irrational of me to have so many children, but in fact, I am very rational. I have said earlier that my employer treats me well. Also, owing to my religious belief and the consensus with my wife, we want to have more children. I now have five kids. A colleague just said I had taken paternity leave five times but in fact, I only took it four times as two of my daughters are twins. The university I work with does not provide paternity leave. Thus, I could only take my annual leave to take care of my wife after she had given birth. I do not intend to talk about my personal experience. I just want to say that seven days is really not enough, and we should all know it. Why do we still have to hide our conscience by not considering more about how we can help the employees, society, families, couples and children? Since you say that you respect the LAB and dare not take action, some Members have put forward amendments. You can vote against the amendments but you cannot threaten to withdraw the Bill. Since the amendments are proposed by our colleagues, the threshold is very high and they have to pass the split voting procedure.

Civil servants enjoy paternity leave of five days. We are now asking for seven days but the Government says there can only be three days. The difference between the two is too big, right? How can you justify yourself? Our impression is that the Government has its arrangement and the business sector has its own, which is less favourable. The public cannot help but think: Are those of you who are sitting on the opposite side more noble? Why do you have paternity leave of five days while they have only three days? Can you explain? Are you saying this is to encourage everyone to become civil servants? Would you be so silly? Of course you would not. Therefore, you lack a rational, reasonable, convincing and acceptable justification. Is this social justice?

I think the starting point should be set at five days, but we are only given three. What in fact have you done? What have you won from the LAB? Our Government has no respect for fairness and principle. It never sees things from the angle of accommodating population policy and encouraging child-bearing. It will only ask us to pocket the arrangement first. This really is a very vulnerable and incompetent government. I can say for sure that if we pass the amendment and increase the paternity leave to seven days, many people will be grateful and will lend us their support. Of course, the business sector also has to follow. I believe no one will abuse the seven-day paternity leave.

With these remarks, Deputy President, I support the resumption of the Second reading of the Bill and the various amendments seeking better protection for the wage earners of Hong Kong. Thank you, Deputy President.

SUSPENSION OF MEETING

DEPUTY PRESIDENT(in Cantonese): The meeting is now suspended until 9 am tomorrow.

Suspended accordingly at 7.57 pm.

Annex I

Administration of Justice (Miscellaneous Provisions) Bill 2014

Committee Stage

Amendments moved by the Chief Secretary for AdministrationClauseAmendment Proposed

3

By deleting the clause and substituting—

“3. Section 79A amended (interpretation)

Section 79A—

Repeal the definition of *live television link***Substitute*****“live television link* (電視直播聯繫) means a system—**

- (a) in which a courtroom and another room located in the same premises as the courtroom are equipped with, and linked by, audio-visual facilities that are capable of allowing—
 - (i) persons in the courtroom to see and hear persons in the other room; and
 - (ii) persons in the other room to hear, or see and hear, persons in the courtroom; and
- (b) installed for allowing persons in the other room to give evidence in the proceedings taking place in the courtroom,

and includes a similar system linking a room in which a magistrate is taking a deposition in writing under section 79E with another room from which the person gives evidence for the purpose of the deposition;”.”

New

In Part 2, by adding—

“3A. Section 79B amended (evidence by live television link)

After section 79B(5)—

Add

“(6) The audio-visual facilities used in a live television link must be approved by the Chief Justice.”.

5

In the proposed section 80(6)—

- (a) by adding “or reasons reduced to writing under subsection (4)” after “subsection (2)”;
- (b) in paragraph (b), by deleting “and”;
- (c) in paragraph (c), by deleting the full stop and substituting “; and”;
- (d) by adding—

“(d) make a copy of the reasons available to the public through the Internet.”.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Financial Services and the Treasury requested the following post-meeting amendments in respect of the speech on moving the Second Reading of Stamp Duty (Amendment) Bill 2014

Lines 4 and 5, fifth paragraph, page 101 in the speech of the Secretary for Financial Services and the Treasury of the Confirmed version

To amend "... but also the competitiveness of those ETFs that track indices comprising not more than 40% of Hong Kong stocks." as "... but also the competitiveness of those ETFs that track indices comprising more than 40% of Hong Kong stocks." (Translation)

(Please refer to lines 5 and 6, second paragraph, page 3787 in the speech of the Secretary for Financial Services and the Treasury of this Translated version)

Lines 2 and 3, sixth paragraph, page 101 in the speech of the Secretary for Financial Services and the Treasury of the Confirmed version

To amend "... so that the trading cost of ETFs that track indices comprising not more than 40% of Hong Kong stocks can be reduced as well." as "... so that the trading cost of ETFs that track indices comprising more than 40% of Hong Kong stocks can be reduced as well." (Translation)

(Please refer to line 2 to 4, third paragraph, page 3787 in the speech of the Secretary for Financial Services and the Treasury of this Translated version)