

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 3 November 1999**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE MRS RITA FAN, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE HO SAI-CHU, S.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE EDWARD HO SING-TIN, S.B.S., J.P.

THE HONOURABLE MICHAEL HO MUN-KA

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE LEE KAI-MING, S.B.S., J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE AMBROSE CHEUNG WING-SUM, J.P.

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

DR THE HONOURABLE LEONG CHE-HUNG, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM, J.P.

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

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

DR THE HONOURABLE TANG SIU-TONG, J.P.

**MEMBERS ABSENT:**

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE FUNG CHI-KIN

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

MR RAFAEL HUI SI-YAN, G.B.S., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.

THE SECRETARY FOR JUSTICE

MR CHAU TAK-HAY, J.P.

SECRETARY FOR TRADE AND INDUSTRY

MR GORDON SIU KWING-CHUE, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR DOMINIC WONG SHING-WAH, J.P.  
SECRETARY FOR HOUSING

MR JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

MISS DENISE YUE CHUNG-YEE, J.P.  
SECRETARY FOR THE TREASURY

MR STEPHEN IP SHU-KWAN, J.P.  
SECRETARY FOR ECONOMIC SERVICES

MRS REGINA IP LAU SUK-YEE, J.P.  
SECRETARY FOR SECURITY

**CLERKS IN ATTENDANCE:**

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation	<i>L.N. No.</i>
Solicitors (Professional Indemnity) (Amendment) (No. 2) Rules 1999 .....	266/99
Tax Reserve Certificates (Rate of Interest) (No. 7) Notice 1999 .....	267/99

**Other Papers**

No. 27 — Land Development Corporation  
Annual Report 1998-99

No. 28 — The Government Minute in response to the Eleventh  
Annual Report of the Ombudsman issued in July 1999

Report of the Bills Committee on Electricity (Amendment) Bill 1999

Report of the Bills Committee on Shipping and Port Control  
(Amendment) Bill 1999

**ADDRESS**

**PRESIDENT** (in Cantonese): Address. The Chief Secretary for Administration shall address this Council on the Government Minute in response to the Eleventh Annual Report of the Ombudsman issued in July 1999.

**The Government Minute in response to the Eleventh Annual Report of the Ombudsman issued in July 1999**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, the Eleventh Annual Report of the Ombudsman was tabled before this Council on 7 July 1999. The Government then undertook to prepare a Government Minute in response to the recommendations made in Annex 6 and Annex 9 of the Annual Report, so as to let the Ombudsman and the public monitor how the Government and the public organizations concerned would implement the recommendations. I now submit the Government Minute to this Council.

The Minute covers all those complaints investigated by the Ombudsman and his related recommendations, and it also touches upon the seven investigation cases directly initiated by the Ombudsman in 1998-99. Most of the Policy Bureaux and departments involved in the complaints have already accepted the Ombudsman's recommendations in full, and they are now attending to the work of actual implementation. Only a very small number of Policy Bureaux and departments involved in the complaints are unable to accept the Ombudsman's recommendations in full, and this is largely due to resources or operational constraints. The reasons are set out in detail in the Government Minute.

The organizations involved in the cases covered by the Government Minute also include the Judiciary and public organizations such as the Hong Kong Housing Society, the Airport Authority and the Hospital Authority. These public bodies are not government departments, but as a show of their commitment to public accountability, they have still supplied us with the information required and set out the follow-up actions they have taken in response to the Ombudsman's recommendations.

The Ombudsman has made obvious and significant contribution in respect of handling people's complaints against administrative malpractices and enhancing the quality of public administration. We are also aware of the public aspiration for enhanced transparency and accountability of the Government. So, the Government will certainly continue to do the best it can to assist the Ombudsman in his work and to work with him together in trying to achieve higher standards of public administration.

Should Members wish to have any further elaboration from the Government on the contents of the Government Minute, the Government will be more than happy to provide the information required.

Thank you, Madam President.

**ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

**Elimination of Unscrupulous Business Practices**

1. **MR CHAN WING-CHAN** (in Cantonese): *Madam President, as some ginseng and dried seafood shops are adopting unscrupulous business practices, such as using misleading price tags and giving inaccurate descriptions of products, in promoting their products, many residents and even tourists have been deceived and the reputation of Hong Kong is tarnished. In this connection, will the Government inform this Council whether:*

- (a) *it will consider legislating to eliminate such unscrupulous business practices; and*
- (b) *it has assessed if the Consumer Council's existing practice of disclosing the names of shops involved in unscrupulous business practices can act as an adequate deterrent?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President,

- (a) At present there are already various legislative provisions against those involved in such unscrupulous business practices. Under the Trade Descriptions Ordinance, any person who applies a false trade description or a forged trade mark to goods commits an offence. The Weights and Measures Ordinance prohibits the making of false statements in supplying goods, the use of inaccurate weighing equipment and the supply of goods by weight short of the quantity purporting to be supplied. Besides, the shops involved are liable to prosecution on the criminal charge of obtaining property by deception under the Theft Ordinance if sufficient evidence is available.



However, legislation alone cannot ensure that consumers will not become victims of such unscrupulous business practices. As the cases handled by the Consumer Council indicate, most complainants have been cheated because they have been attracted by the exceedingly low price without checking the unit of measurement on the price tag, that is, whether it was for a tael or a catty. As such, apart from legislative protection, the Consumer Council has taken various measures to remind consumers to be vigilant against deception and buy goods from shops of repute.

We believe that self-regulation of the industry is another effective means to check undesirable members in the trade. To this end, the Consumer Council has liaised with trade associations in the ginseng and herbal medicine sector. These associations have agreed upon a code of practice for distribution to members for compliance. The logos of these associations will be displayed at the shops of their members for identification, thereby protecting the consumers' interest.

- (b) The Consumer Council's practice of disclosing the names of undesirable shops has considerable deterrent effect. It puts the public and tourists on their guard, as well as serving as a warning to the shops concerned by exposing their unscrupulous practices.

In fact, disclosing the names of undesirable shops is just one of the measures taken by the Consumer Council to protect consumers. The Council also liaises closely with the Customs and Excise Department as well as the police in combating such unscrupulous shops.

In addition, the aggrieved consumers may lodge complaints with the Consumer Council, who will act as a mediator and help them obtain refunds. If the shops concerned refuse to co-operate, the Council will offer assistance to these consumers in submitting their claims to the Small Claims Tribunal. Consumers may also apply to the Consumer Legal Action Fund administered by the Consumer Council for taking legal action against such shops.

**MR CHAN WING-CHAN** (in Cantonese): *Madam President, although the Consumer Council has recently disclosed the names of two ginseng and dried seafood shops which have adopted unscrupulous business practices in promoting their products, similar incidents still happened. In this connection, I have received a complaint from the public that a ginseng and dried seafood shop located in Mong Kok near Xin Guang Restaurant is adopting the same practices. Take dried conch meat, which has been referred to as pearl meat by the shop, as an example, the shop has written in large characters that "10% discount for purchase up to one catty: \$124" and then in very small characters the words "per tael". According to the complainant, after he had ordered for half a catty, the shopkeeper advised him that chopping up the dried conch meat could help enhance its taste, and so he gave the shopkeeper his consent. However, it was only when the shopkeeper gave him back the chopped dried conch meat and charged him \$992 did he realize that the captioned price was for a tael instead of a catty.*

*Madam President, would the Government consider legislating to require shops setting out clearly the prices concerned, with a view to preventing unscrupulous businessmen from secretly setting traps to trick both the consumers and the tourists? As we all know, Madam President, operators of market stalls trying to deceive customers by short weighing goods purported to be supplied will also be punished.*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): *Madam President, in my answer to Mr CHAN's question just now, I actually made it very clear that there were three ordinances targeting at those unscrupulous shops. We believe the existing legislation is adequate to achieve the purpose, and one of our reasons is that however perfect the relevant ordinances have been written or however hard we try to plug the loopholes, those who wish to break the laws would still find their ways to do so. For instance, robbery and murder are offences against the law, but why are there still so many robbery or murder cases committed in society? Hence, we believe the most important point is for the consumers to be vigilant. They should make sure the price concerned is for a catty or for a tael. As the saying goes: "Greed breeds poverty". If the price should be too good to be true, one would be too careless to make any purchase before finding out whether the price is for a tael or a catty.*

**MR CHAN WING-CHAN** (in Cantonese): *As far as traps are concerned, the price of \$124 for a catty of dried conch meat should not be regarded as too good to be true .....*

**PRESIDENT** (in Cantonese): Mr CHAN, the question time is not for debate. You could seek clarification if any part of your supplementary has not been answered; however, I think you were trying to express your views just now, so I will call upon another Member to raise his supplementary.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, it was pointed out in the first paragraph of part (b) of the Secretary's main reply that the Consumer Council's practice of disclosing the names of undesirable shops or the "black-listed" shops is to achieve a deterrent effect and to serve as a kind of punishment to the shops concerned. However, has it ever occurred to the Government that apart from those undesirable shops disclosed by the Consumer Council, there are also shops that are very good and honest? Since we call the undesirable shops the "black-listed" shops, maybe we could name those good shops under a "white list", so that consumers can do shopping at those "white-listed" shops and be better protected. Could the Secretary inform this Council whether this is feasible?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, this is a rather innovative suggestion, but I am afraid there will certainly be some difficulties in implementation. It is unlikely for the Government to set up an assessment committee to determine which shops are the desirable shops and give them a label or put them on a "white list". As I said before, taking the ginseng and dried seafood shops as an example, actually the Consumer Council has discussed the issue with three trade associations in the ginseng and herbal medicine sector. In addition to agreeing upon a code of practice for distribution to members for compliance, the three trade associations have also designed a logo of "quality guarantee" for display at their member shops. While members of the public and tourists could shop with greater confidence in shops displaying the logo, they should still take care to make sure whether the price written on the price tag is by the catty or by the tael.

**MR FRED LI** (in Cantonese): *Madam President, I should like to talk about the arrangement of publicizing the "black-listed" shops. As I understand it, shops in the trade and those shops selling audio-visual products trade in many different names. Even if the authorities concerned disclosed their names on the television, those shops would use another name the next day to continue business; what is more, the operators and the business practices adopted are essentially the same. This is indeed very common among the trades concerned; as such, disclosing the names of the unscrupulous shops could not really achieve any deterrent effect. In view of this common practice in the sector, could the Secretary inform this Council how the Government is going to plug the loopholes concerned, bearing in mind that it is just meaningless to disclose the names of the shops if they keep changing their names?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): *Madam President, the answer I gave earlier on was that the measures employed by the Government should be able to achieve certain deterrent effect, I did not say that the measures could achieve absolute deterrent effect. As the saying goes: The law is strong, but the out-laws are even stronger. If the unscrupulous businessmen are determined to cheat the consumers with unlawful practices, we could only institute prosecutions after we have received complaints from the consumers concerned and gathered enough evidence. However, if those businessmen should change the names of their shops, there is no way for us to stop them from doing so.*

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, since the Disney theme park will soon be constructed in Hong Kong, our tourism industry will certainly flourish then. Under the circumstances, if the Government should be unwilling to do something more to protect the tourists or the consumers, the confidence of tourists visiting Hong Kong and that of local consumers would certainly be undermined. For this reason, I hope very much that the Government could further discuss with the Consumer Council and take the initiative to do something more in this respect. Otherwise, consumer spending in Hong Kong will just .....*

**PRESIDENT** (in Cantonese): Mr CHAN, please come to your supplementary direct.

**MR CHAN KAM-LAM** (in Cantonese): *I hope the Government and the Consumer Council will .....*

**PRESIDENT** (in Cantonese): Mr CHAN, what is your question for the Government?

**MR CHAN KAM-LAM** (in Cantonese): *I know, Madam President. I just wish the Government and the Consumer Council could inform us after they have done something whether they will cause heavier or more penalty to be imposed on those unscrupulous businessmen.*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I think I have to refer back to my main reply and tell the Honourable Member that we consider there are adequate provisions under the existing legislation to crack down on unscrupulous business practices and to impose penalty on the businessmen and shops concerned. Indeed, the Consumer Council has done a lot of work on this, and liaised with the Hong Kong Tourist Association (HKTA) which has also made a lot of efforts to protect the interests of tourists. With your permission, Madam President, I should like to give a brief account of the work done by the HKTA in this connection.

To protect the interests of tourists, in addition to collaborating closely with the Consumer Council, the HKTA also lists out the unscrupulous shops on the Official Hong Kong Guide it publishes to help tourists raise their alertness; besides, inquiry hotlines are also available to offer tourists information on shopping. As regards the Visitor Information and Services Centre of the HKTA, apart from providing tourists with suggestions and information on shopping, the staff members there will also encourage tourists to patron member shops of the HKTA and the Association of Retailers and Tourism Services. Tourists could also visit the website of the HKTA to get some Travel Tips. Furthermore, a booklet entitled "Be a Smart Consumer" as well as a "Welcome

Pack" have also been prepared for distribution to tourists, with a view to reminding them of certain points they need to pay attention to in doing shopping. The HKTA publications concerned also list out the phone numbers and addresses of the inquiry centres of the Consumer Council. On the other hand, the HKTA will also be implementing a Quality Tourism Services Scheme towards the end of the year in collaboration with retail shops and restaurants. The purpose of the Scheme is to provide for tourists' choice a list of shops and restaurants that are in compliance with the code of practice for quality services, as well as to upgrade the service standard of shops in Hong Kong as a whole, thereby reinforcing the status of Hong Kong as a shoppers' paradise.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, in marking the price level of their goods, many ginseng shops would resort to representing the unit of measurement, such as "tael" or "catty", in very small print to deceive the elderly consumers who cannot see well. Then when the elderly consumers ask them for the price, they would reply by asking them the amount they want instead of telling them the price. As a result, many elderly consumers have been cheated by such shops. In this connection, could the Secretary inform this Council whether the Government would legislate to require shops to ensure that the size of the words "catty" and "tael" must be large enough for customers to see very clearly? If legislation on this front should be enacted, not only the elderly consumers would be able to see the unit of measurement at ease, the government departments concerned could also discharge their duties more easily, thereby enabling more consumers to avoid being cheated.*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, according to my understanding, except for anti-smoking warnings, the Government is not authorized under the existing legislation to prescribe the size of any messages on printed matter. At present, the anti-smoking warning message must take up 20% of the size of an advertisement displayed outdoors or that of an advertisement board. The enforcement of this requirement is quite convenient, as we can all see the advertisement boards concerned and check if the size of the warning message is in compliance with the requirements. However, since there are numerous retail shops in Hong Kong and quite a number of them are selling ginseng, if we should prescribe the size of the words "catty" and "tael", we would need to put in a lot of resources to enforce the

requirement. Besides, the law enforcement work would certainly be met with considerable difficulties. For these reasons, we do not intend to make legislation on this front.

**PRESIDENT** (in Cantonese): Last supplementary.

**MR GARY CHENG** (in Cantonese): Madam President, I should like to correct a piece of information given by the Secretary just now. Apart from anti-smoking warning messages, the respective designated numbers of candidates running in elections are required to be 4cm by 4cm in size when shown on election posters. As such, it is possible to make requirements in this respect. In view of these precedent cases, would the Secretary whether the Government reconsider formulating requirements to make it compulsory on shops to ensure that the words "catty" and "tael" are of a specific size?

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, certainly there is such a provision in our legislation. The reply I gave just now was "according to my understanding" only; as such, maybe it was out of my ignorance that I have overlooked the relevant ordinance. *(Laughter)* Or perhaps it was because I was not quite sure whether candidates running in elections would have any consumers. Are electors consumers in that context? I do not think so, for it is inappropriate to say that Members are "bought" by electors. All along, I have been of the belief that provisions similar to the election-related laws and requirements should not be arbitrarily or conveniently applied to other aspects, because there would at most be one to two elections every year and each election would last only a very short period of time. Moreover, the election publications of candidates, be they leaflets, letters or other printed matter, must be reported to and monitored by the Registration and Electoral Office. As far as elections are concerned, since there is a centralized mechanism responsible for enforcing the relevant requirements, it is still possible to achieve the purposes concerned albeit considerable resources have to be employed. As regards the price tags used in shops, however, I believe the requirements concerned could hardly be enforced in a cost-effective manner after all. Now that many of such cheating cases have been reported by the press recently, members of the public should all the more check out for themselves

whether the unit of measurement on the price tag is by the catty or by the tael. If consumers have forgotten to bring along their presbyopic glasses, they could perhaps move closer to the price tags to take a clear look.

### **Mainlanders' Applications for Legal Aid**

2. **MR GARY CHENG** (in Cantonese): *Madam President, regarding the mainlanders' applications to the Legal Aid Department (LAD) for legal aid in their lawsuits in Hong Kong in connection with their right of abode (ROA) in the territory, will the Government inform this Council of:*

- (a) *the total number of such applications received by the LAD in the first nine months of this year, together with a breakdown of these applications by the cause of action and, in respect of the approved cases among them, of the estimated total legal fee involved; and*
- (b) *the resource constraint that the LAD was subject to in processing these applications?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, with respect to the question regarding the mainlanders' applications to the LAD for legal aid in their lawsuits in Hong Kong in connection with their ROA in the territory,

- (a) A total of 10 289 applications were received by the LAD during the first nine months of 1999 for legal aid to pursue lawsuits in Hong Kong in connection with ROA claims in the Hong Kong Special Administrative Region. Of these, 9 690 (that is 94%) were received during 7 July to 31 July. Discounting 2 623 duplicated applications, the figure amounted to 7 666 applications.

The reasons cited for instigating legal proceedings were varied, but can be broadly categorized into:



- (1) To challenge the Government for non-compliance with the Court of Final Appeal (CFA)'s decision of 29 January 1999 in establishing a reasonable Certificate of Entitlement (C of E) Scheme within a reasonable time;
- (2) To challenge the existing C of E Scheme endorsed by this Council in July; and
- (3) To challenge the validity of the interpretation of the Basic Law by the National People's Congress.

As most applications cover more than one issue, a further breakdown is not possible.

As preparation for the approved cases has only just started, it is difficult at this stage to estimate the total legal fees that would be incurred in these cases.

- (b) The LAD will not be subject to any constraints of insufficient funding in processing applications for legal aid. The Government does not set any cash ceiling for legal aid cost incurred by the LAD. The Director of Legal Aid will grant legal aid to anyone who satisfies the means and merits tests. If the funds allocated in a given year is insufficient to cover the costs involved within that year, the LAD may seek supplementary provision to meet the shortfall.

**MR GARY CHENG** (in Cantonese): *Madam President, as the LAD accepts applications from people who are not yet in Hong Kong, that is, these people can fill their cases before their arrival in Hong Kong, will the Chief Secretary for Administration inform this Council whether the LAD has laid down procedures for verifying the authenticity of the information supplied by these people and, if not, whether this will result in another connivance of abuses?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, generally speaking, as the LAD needs to conduct means and merits tests, applicants will be required to fill in a specified application form. According to its usual practice, the LAD will arrange to meet with the applicants to verify their financial position and the merits of their cases. As it is not strictly required under the Legal Aid Scheme that applicants must be in possession of ROA, they will, strictly speaking, still be entitled to applying for legal aid even they are not in Hong Kong. But in most cases, in the course of conducting the means and merits tests, the applications will very probably be rejected if the applicants fail to meet with LAD staff in Hong Kong to conduct the tests.

**MR GARY CHENG** (in Cantonese): *Madam President, I want to pursue another question.*

**PRESIDENT** (in Cantonese): Mr CHENG, which part of the supplementary question you just raised was unanswered?

**MR GARY CHENG** (in Cantonese): *This is because the Chief Secretary for Administration mentioned the application form.*

**PRESIDENT** (in Cantonese): Mr CHENG, this is not part of your supplementary question. Perhaps you should wait for another turn to raise that question.

**MR GARY CHENG** (in Cantonese): *My question is: If the applicants are not in Hong Kong, how can the LAD prove the authenticity of their signatures or that such persons really exist?*

**PRESIDENT** (in Cantonese): Mr CHENG, please wait for your turn.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, my supplementary question is: With respect to these 7 000-odd applications, which lawsuits were pursued by solicitors' firms on behalf of the applicants? Can the answer be given in tabulated form for easy reference by Members?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, I do not have such information. Generally speaking, we will not ask the LAD how approvals were given and investigations conducted. Nevertheless, if Members are interested in this area, I can forward Members' request to the LAD to see if it can provide the relevant information. (Annex I)

**MR JASPER TSANG** (in Cantonese): *Madam President, is the figure provided by the Government inclusive of the number of cases lodged by applicants who were not in Hong Kong or had not arrived when lodging their applications as mentioned earlier on? If the answer is affirmative, will the Government inform this Council of the ratio taken up by these applications?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, with respect to Mr TSANG's supplementary question, may I clarify whether he was referring to applications which had been approved or not yet approved but were under investigation?

**MR JASPER TSANG** (in Cantonese): *Madam President, I was referring to the figure mentioned in the main reply, that is, the total number of legal aid applications received by the Government from ROA claimants for the purpose of instigating legal proceedings.*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): As far as I know, the LAD has for the time being selected six representative cases out of those 7 666 applications. Some applicants of the six cases are very probably not physically present in Hong Kong.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, given the existing mechanism, will the Government inform this Council whether it is concerned that many people will take advantage of this mechanism and apply for legal aid through their parents whereas they are actually not in Hong Kong and, upon the acceptance of their applications, they will come to Hong Kong by way of smuggling or other means to pursue their lawsuits with the Government by taking advantage of legal aid? If the Government really encounters this situation, what measures will it take and how will it view the whole matter?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, of course, there are legal requirements governing the provision of legal aid. Under the regulations related to legal aid, if anyone provides information which is false, we will investigate and follow up the matter. As this has already been provided in the law, we can take further action if it is proved that an applicant has supplied false information.

Regarding the supplementary question raised by Miss CHOY, I am aware that there are some concerns in this area. Therefore, we will conduct a review in this area.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, in answering Mr Gary CHENG's supplementary question, the Chief Secretary for Administration said that the applications would usually be rejected if the applicants, who were not in Hong Kong, had lodged their applications for legal aid through their family members. Out of the 7 000-odd applications, which cases were lodged by the family members of applicants who were not in Hong Kong and were eventually approved?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, I do not have such information on hand. But I can check with the LAD. (Annex II)

**MR GARY CHENG** (in Cantonese): *Madam President, the Chief Secretary for Administration mentioned the application form just now. Of course, the applicants will need to sign the forms but how can the LAD prove that the forms were signed by the applicants themselves? Before establishing the proof, how can the LAD accept the cases?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): *Madam President, this is something to do with the enforcement of legal aid. In this area, I will check with the LAD and give Mr CHENG a written reply. (Annex III)*

### **Throwing of Objects from a Height**

3. **MR TAM YIU-CHUNG** (in Cantonese): *Madam President, regarding the problem of objects being thrown from a height, will the Government inform this Council of:*

- (a) *the total number of cases handled involving the throwing of objects from a height in the past three years, the casualties involved and the number of cases in which the alleged offenders were convicted and, among the cases handled, the number of those which took place within the bounds of public housing estates, the casualties involved and the number of cases in which alleged offenders were convicted; and*
- (b) *the measures in place to prevent the throwing of objects from a height, and whether it has assessed the effectiveness of the current measure of installing videotaping systems in public housing estates as an aid to apprehending such offenders?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President,*

- (a) *The total number of cases reported to the police involving objects dropped from a height from 1996 to 1998 is 1 410, with 62 of them occurring in public housing estates.*

The number of casualties involved in these reported cases is 755. One victim was killed last year, 88 were injured and required hospitalization, while the remaining 666 were slightly injured.

196 offenders involved in the reported cases were convicted of the offence "objects dropped from buildings" under section 4B of the Summary Offences Ordinance. The police do not have a breakdown of the number of casualties and offenders who were involved in cases which occurred in public housing estates.

- (b) The Administration has taken the following measures to prevent throwing objects from a height:
- (i) The police liaise closely with the Housing Department and have stepped up patrols in districts or public housing estates where there are relatively more frequent incidents of falling objects;
  - (ii) The Police Public Relations Branch has organized publicity programmes on the consequences of throwing objects from a height and the need for prevention. These include distributing educational leaflets; conducting clearance operations in public housing estates to remove objects prone to falling from a height and visits to construction sites. It has also publicized the message through the police television programme "Police Magazine";
  - (iii) The Information Services Department has produced both television and radio "Announcements of Public Interest" to educate the public against dropping objects from height;
  - (iv) The Housing Department (HD) has installed the Falling Object Monitoring System on a rotational basis in 39 public housing estates;
  - (v) The HD has also provided protection to pedestrians by constructing covered walkways in 125 public housing estates linking domestic blocks to bus terminals, schools and commercial centres; and

- (vi) Residents of public housing estates are frequently reminded through various means, such as notices, estate newsletters and meetings of Estate Management Advisory Committee and Mutual Aid Committee that dropping objects from a height will endanger the safety of the public and that offenders are liable to criminal prosecution.

As regards the effectiveness of the Falling Object Monitoring System, we believe that the system has achieved some useful deterring effect. Records of the HD show that the number of complaints relating to falling objects from a height received decreased significantly by about 43% in the second quarter of 1999 in estates where such a system has been installed, compared to the preceding quarter. The HD will continue to monitor closely if any further improvement work needs to be done.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, the information given by the HD shows that installing videotaping systems in public housing estates is fairly effective in preventing the throwing of objects from a height. However, take public housing estates in Tin Shui Wai as an example, although all of the dozens of public housing blocks have been installed with videotaping system shelves, only two videotaping machines have been installed, thus, we failed to achieve the desired effects. Will the Government ask the HD to step up installing videotaping machines? If not, why?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, according to the information at hand, cases involving the throwing of objects from a height do not take place most frequently in public housing estates in Tin Shui Wai. Yet, the HD has assured me that they have adequate resources for installing more Falling Object Monitoring Systems. So long as the Estate Management Advisory Committee of the housing estate suggests to the HD that these videotaping machines should be installed in the housing estate, the HD is prepared install more such videotaping systems, unless the housing estate will soon be redeveloped.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, item (iv) in part (b) of the main reply stated that the HD has installed the Falling Object Monitoring System in 39 public housing estates. Will the Government inform this Council whether these videotaping machines have successfully videotaped someone throwing objects from a height?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, my answer is not even once. *(Laughter)* The HD explained to me that with this System five to seven videotaping machines are installed on the roof. As each videotaping machine can cover eight to 12 floors, operating at high speed for 24 hours a day, it can trace the floor from which objects fallen to the ground are thrown. On the principle of respecting privacy, whenever the HD installs such systems in a housing estate, it will certainly publicize this widely in advance and notify residents of the installation of such systems in the housing estates, thus, it has achieved good deterrent effect. The number of reported cases in housing estates installed with such systems has dropped substantially so far but they have never videotaped people who threw objects from a height.

**DR RAYMOND HO** (in Cantonese): *Madam President, will the Secretary for Security inform this Council if the Government will specify the Falling Object Monitoring Systems as basic installations when designing new public estates?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the HD has told me that their policy divides the whole territory into 25 housing areas and Falling Object Monitoring Systems will be installed in housing estates on a rotational basis. Certainly, we cannot merely rely on such systems to prevent throwing objects from a height, and we should also organize publicity programmes to educate the public. Moreover, the HD is of the view that constructing more covered walkways will be quite helpful. It is the policy of the HD that if the Estate Management Advisory Committee of a certain housing estate finds it necessary to install the System and suggests to the HD that it be installed, the HD has the resources to do so and it will be prepared to consider it.



**DR RAYMOND HO** (in Cantonese): *Madam President, will the systems become the basic installation of new housing estates?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President, the HD has explained to me that if a housing estate finds it necessary to install the System, it will be installed but it will not be the essential installation of new housing estates.*

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary said optimistically that the HD had replied that so long as the Estate Management Advisory Committee requests to install the System, it will be installed. But as far as I know, this is not the truth. We have discussed this in the Kwai Tsing District Board and the case is just the opposite. The HD staff told us that the videotaping machines were very expensive and only a few machines were available, therefore, the System would only be installed on a rotational basis in the right order. This System will only be installed in public housing estates with serious cases of throwing objects from a height, especially those resulting in casualties. Will the Secretary for Security inform this Council of the estimated number of such videotaping machines to be purchased as stated in the reply of the HD, and the number of housing estates in which this System will be installed for continued operation? The existing practice is to install this System on a rotational basis, that is, after installing the System in a housing estate for a few months, it will be installed in another housing estate. In other words, the videotaping machines will not be installed in a certain housing estate on a long term. I would like to clarify with the Secretary as to how the HD actually replied? In the last paragraph of the Secretary's main reply, she said that the HD will continue to monitor closely if any further improvement work needs to be done. What improvement measures would actually be taken?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as far as I understand it, this System costs tens of thousands of dollars. The reply I received from the HD is that they have put aside resources to carry out improvement measures. If an Estate Management Advisory Committee suggests that this System should be installed, it will be willingly to consider such suggestion. As for the individual cases mentioned by Mr LEUNG, I will follow them up with the HD later.

As regards other improvement measures, as I have just said, we cannot purely rely on such videotaping systems and the HD will construct covered walkways in all housing estates. Among the 160-odd housing estates, more than 120 have covered walkways, and the HD will continue to construct covered walkways in housing estates. Besides, it will adopt other improvement measures such as stepping up publicity, education and patrols.

**PRESIDENT** (in Cantonese): Mr LEUNG, are you seeking an elucidation?

**MR LEUNG YIU-CHUNG** (in Cantonese): *I just asked the Secretary if the HD had informed her of the number of videotaping machines that would be installed because the HD has said that these expensive machines will not be installed in large numbers. The Secretary has just been very optimistic but I only want to know if the HD has briefed her in detail on the number of videotaping machines to be installed and the installation schedule. The Secretary's has not answered these issues.*

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have actually answered the question. In fact, the videotaping machine issue has been discussed at a meeting of the Fight Crime Committee. The HD has clearly indicated that they are willing to install more such videotaping machines, but it has not stated the actual number. After all, the HD has come to the view that they are willing to consider such installations, if necessary. It also assured me that they have the resources to meet the relevant expenses.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, if someone throws objects from a height, he will be prosecuted for violating section 4B of the Summary Offences Ordinance. The maximum penalty under this provision is a \$10,000 fine and imprisonment for six months. Every year, hundreds of people are injured or even killed by objects dropped from a height. Yet, the relevant penalty was set down in 1997, does the Government consider it necessary to increase the relevant penalty in the light of the present situation? If not, why not?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the Government has noted that the penalty is soft on stringency. If there are falling objects in a construction site, the penalty will be heavier, that is, a \$50,000 fine and one year's imprisonment. The lighter penalty is imposed because the rates of detection and prosecution of these offences are relatively low and the police think the key lies in whether cases can be cracked. For instance, in these three years, there have been over 1 400 cases involving objects dropped from a height but only 17% of the cases resulted in prosecution while only 14% of them were successful. With such a low detection rate, even though penalty is increased, it may not necessarily have material deterrent effect. Moreover, before a court determines the penalty, it will take various factors into consideration such as whether the incidents are caused merely by carelessness of people. As far as I understand it, many cases are caused by carelessness, for example, carelessly dropping laundry poles. Therefore, increasing penalty may not necessarily achieve a greater deterrent effect. Apart from installing some facilities, we think that the best improvement measure is for the police and HD to step up publicity and educate people that throwing objects from a height may cause serious harm to other people.

**MR LEE WING-TAT** (in Cantonese): *Madam President, there should be more than 160 public housing estates in Hong Kong while the main reply has stated that the HD has installed the Falling Object Monitoring System on a rotational basis in 39 public housing estates. Does the Housing Bureau or the Government have any plans for installing such Systems in all public housing estates within a certain timeframe?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, the HD has not considered installing such Systems in all public housing estates but they will review the needs of the estates annually. As the Secretary for Security has just said, if there are more serious or frequent cases involving objects dropped from a height in public housing estates, they will install such Systems in these estates. In other words, the HD will allocate funds for the installation of such Systems in public housing estates as needed. Therefore, I can tell Honourable Members that so long as there is a method that can really put an end to throwing objects from a height, the HD will certainly actively consider adopting it.

**DR LUI MING-WAH** (in Cantonese): *Madam President, the Secretary stated in part (a) of her reply that only 62 of the 1 410 cases occurred in public housing estates. How will the Government deal with cases involving objects dropped from a height that occurred in other buildings?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the Government deals with cases involving objects dropped from a height that occurred in other buildings in the same way, that is, it will actively conduct publicity and education. Therefore, the Information Services Department frequently broadcasts Announcements of Public Interest to remind the public not to throw objects from a height. The police have also publicized the message through the TV programme "Police Magazine". Actually, most cases of objects being dropped from a height occurred on the streets and pedestrian walkways. In the past few years, more than 60% of such cases occurred in such places, and a small number of around 6% to 9% occurred in private buildings while a negligible number, around 2% to 3%, occurred on construction sites.

**PRESIDENT** (in Cantonese): Last supplementary.

**MISS CYD HO** (in Cantonese): *Madam President, the Heng On Estate in Ma On Shan has been designated for the purchase scheme and 60% of the tenants have become owners. However, these tenants have formed an owners incorporation but failed to have it registered for certain reasons. Yet, there are very serious cases involving objects dropped from a height in the estate and a metal shovel fell from a height earlier on and seriously injured a person. Although the owners incorporation has not been formally registered, it earnestly hopes that sums can be taken from the maintenance fund to install a videotaping system. However, as the incorporation has not been formally registered, it cannot utilize the fund. As a result, it wants to borrow money from the HD or ask the HD to install the system. Yet, there is no counterpart organization that can formally negotiate with the HD. Given the serious situation of cases involving objects dropped from a height, how can the problem be handled?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question? Secretary for Housing.

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in this situation, the residents should discuss the matter with the former management personnel. I believe there will not be material problems in advancing certain sums because sums should have been earmarked for purposes such as maintenance in future. Therefore, it is generally a procedural issue. I believe both parties can reach an agreement in respect of procedures to facilitate the installation.

**PRESIDENT** (in Cantonese): Miss HO, which part of your supplementary has not been answered?

**MISS CYD HO** (in Cantonese): *Madam President, I think I may not have made my point clearly, therefore, the Secretary has failed to answer my supplementary. The problem lies in the fact that the owners incorporation has not been formally registered. The owners are willing to install the videotaping system and there are funds available. Although there are very serious cases involving objects dropped from a height, as it is not known when the incorporation will be formally registered, the videotaping system cannot be installed. Within this transitional period, what methods does the Administration have to help improve the existing situation of the Heng On Estate?*

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

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, as I have just said, the residents can actually send representatives to examine the issue together with the HD. In terms of procedures, if the parties can reach an agreement after discussions, regardless of whether the owners incorporation has been registered or not, if necessary, it can advance the necessary sums which can then be deducted from the fund in future.

### **Bringing Construction Works of Housing Authority under the Ambit of Buildings Ordinance**

4. **DR TANG SIU-TONG** (in Cantonese): *Madam President, at present, the construction works of the Hong Kong Housing Authority (HA) are not regulated by the Buildings Ordinance (Cap. 123). Hence the design, construction as well as the structural safety of these works are not subject to the scrutiny of the Buildings Department. In this connection, will the Government inform this Council:*

- (a) *of the justifications for not subjecting the construction works of the HA to the regulation of the Buildings Ordinance; whether it has considered bringing such works under the ambit of the Ordinance; if it has considered and decided to maintain the existing arrangement, of the justifications for that;*

- (b) *in the light of the several jerry-building cases in the construction works of the HA, whether it will reconsider bringing such work under the ambit of the Buildings Ordinance; if so, of the details; if not, of the reasons for that; and*
- (c) *of the measures it will take to regain public confidence in the buildings developed by the HA?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, section 41(1)(aa) of the Buildings Ordinance exempts any buildings over which the HA has control and management from the provisions of the Ordinance. Section 18(2)(a) of the Housing Ordinance stipulates that the Buildings Ordinance shall not apply to buildings to be constructed or being constructed by the HA. Such a decision made since 1973 is to enable the timely delivery of the public housing programme. Notwithstanding this arrangement, the HA's usual practice is to follow the standards set out in the Buildings Ordinance concerning building design and construction so as to ensure the safety and quality of housing projects. Advice will be sought from the Buildings Department (BD), when necessary, on the interpretation and application of the Buildings Ordinance, regulations and codes of practice. This arrangement has worked well, and there is no intention to change it at present.

The HA takes a serious view of safety of buildings and quality of construction. First, it will investigate any substandard construction work, take disciplinary and legal action where indicated, and rectify any substandard construction. Secondly, it will tighten up its monitoring procedures. Thirdly, the HA has started a comprehensive review, together with contractors, professional institutes, government bureaux and departments, to enhance the safety and quality of public housing through partnership.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, the first paragraph of the Secretary's main reply states clearly that the buildings to be constructed or being constructed by the HA are not subject to the supervision of the BD. It is also said that this arrangement has worked well, and the Government does not*

*intend to introduce any changes. I find this very regrettable. And, according to the Secretary, the Housing Department will seek advice from the Buildings Department from time to time. Will the Secretary therefore tell us how many times the Housing Department has actually done so over the past three years? And, how much manpower has the HA deployed to supervise building construction?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in general, the Housing Department (HD) will submit standard block designs to the BD for examination and approval, and once the BD gives its approval, these standard block designs will be adopted. However, the HD will not submit a standard block design to the BD every time when a new building is to be constructed, because most of the buildings constructed by the HD will adopt similar designs. In case minor adjustments are required, it is within the authority of the HD to make its own decisions. And, if the HD is in any doubt, or if it needs any clarification, it will always seek advice from the BD. I do not of course have any information to hand which can show the number of such inquiries made by the HD in the past few years. But I can tell Members that whenever necessary, staff of the HD will maintain contact with the parties involved either by telephone or other means.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, can the Secretary provide a written reply on the number of such inquiries made by the HD in the past three years? Besides, the Secretary has not answered how much manpower is deployed to conduct supervision.*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I can check it out and provide a written reply on the number of such inquiries later on. (Annex IV) As regards the point on manpower, I would say that HD staff will actually conduct supervisory work at every stage of any construction works project. And, within the HD, there is also an independent audit team of 35 members, falling into different groups, which is responsible for supervising the various aspects of constructions works. Besides, HD staff will also monitor the



construction works concerned in respect of design, foundation and so on in the course of their daily work, and this is something in addition to the work of the independent audit team.

**MR ERIC LI** (in Cantonese): *Madam President, the reply of the Government tells us that the relevant policy was first implemented in 1973. But I wish to point out that since 1973, many major fundamental changes have occurred to the role, policies and work of the HA. The policy concerned was founded on the assumption that the HA would control and manage all these buildings on a permanent basis. And, at that time, many public housing units were indeed controlled and managed by the HA on a long-term basis; this explained why the HA was given such an exemption, and we can all understand. However, the Home Ownership Scheme (HOS) flats now constructed by the HD are for sale, and the Department has even sold many of its rental units. And, we find that many of the HOS flats and rental units sold by the Department are plagued with problems in terms of works supervision. This makes people feel that the HA does not have enough experience in works supervision. Does the Government agree that there is a lack of legal protection for consumers in this respect? The HA says that it will conduct internal monitoring, and that it will monitor the works carried out by middle parties. The HA is the biggest property developer in Hong Kong, but it has tried to shift the responsibility to middle parties, while other property developers have to shoulder all the responsibility themselves. Is the HA trying to be lenient with itself but harsh with others?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, as I have already explained, when the HD constructs any HOS flats, it will adhere to the standards laid down in the Buildings Ordinance in respect of design plans, foundation and superstructure. Mr LI has just mentioned the problems relating to completed HOS flats and rental units for sale. We will pay attention to these problems. Actually, we have already held discussions with the BD. We are right now drafting a list containing all the relevant details of the buildings concerned; we are also gathering all the design plans from the parties involved and drafting the legal instruments required. We have also worked out a timetable, according to which the HD will hand back such a responsibility to the BD, so that it can assume the responsibility of management and monitoring. Since the transitional arrangements required are still being made, it will take

some more time before the hand-over can be completed. It is expected that the whole process will be completed by the end of next year, and we will be able to give a formal and complete report by then.

As to the question of whether or not the HD is able to monitor the construction works undertaken by another government department, I would say that the answer is "yes". The reason is that the HD does have staff specializing in matters relating to plan design, foundation works and superstructure construction. Besides, we have to note that contractors themselves will also conduct their own monitoring work, and that there is the independent audit team to monitor each and every stage of the construction process. Therefore, we believe that the HD should be able to conduct its supervision and monitoring work effectively.

**MR ERIC LI** (in Cantonese): *Madam President, my supplementary question is perhaps a bit complicated. But any way, I still wish to thank the Secretary for his detailed answer. Basically, what I mean is that like its private sector counterparts, the HD is also a property developer, and supposedly, all property developers should be treated equally under the rule of law. However, it now appears that the buildings developed by the HD are not subject to the same kind of statutory control applicable to other property developers. Will this lead to any unfairness? I hope the Secretary can answer this question.*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, before we consider the question of fairness, I think we must first consider the overall interests of Hong Kong people. By this, I mean that as Members also know, the demand for public housing in Hong Kong over the past few decades has been very great. So, the Government decided that nothing should be allowed to obstruct or hinder the construction of public housing. That is why the decision in question was made in 1973, giving the HA such an exemption. But this does not mean that the HA has in any way failed to discharge its duties; it has always discharged its duties well, in strict accordance with the standards laid down in the Buildings Ordinance.

**MR ANDREW CHENG** (in Cantonese): *Madam President, as mentioned in the main reply, the exemption enjoyed by the construction works of the HA was first granted in 1973, and the rationale behind this exemption is to ensure timely delivery. According to the Secretary, this arrangement has worked very well. What kinds of assessment standards have led the Government to say, so confidently, that this arrangement has worked very well? I suppose the standards must be very low indeed. As we all know, many problems with housing estates have emerged recently. I know that in one housing estate at least, whenever the residents of a unit wash the floor in their corridor, water will come down like rain through the joints in the corridor downstairs. Is this what is meant by "working well" and "effective monitoring"? As far as the construction of these public housing units and HOS flats are concerned, is it in fact the objective of the Government to emphasize quantity rather than quality? Has the Government actually tried to attain the target quantity by hook and by crook, even by constructing substandard housing units?*

**SECRETARY FOR HOUSING** (in Cantonese): *Madam President, my answer is that both the HA and the HD have never been sloppy in their work; in fact, they have always tried to do their best in discharging their responsibilities. The Honourable Member must realize that the problems described by him are not exclusive to public sector housing units; they are also found in private sector housing units. The only thing is that when such problems are found in private sector buildings, the media do not usually report them extensively, which is why not many people are aware of them. Well, whenever the HD detects such problems, it will probably make more efforts than anybody else to rectify the situation, because if it fails to remedy the situation satisfactorily, the residents will certainly complain, and I am sure that Members will also lodge complaints for them.*

**MR ANDREW CHENG** (in Cantonese): *My question is about the assessment standards adopted by the Government, standards which have given the Government the confidence to say that the arrangement has worked very well. The Secretary has been trying to defend the Government, saying that similar problems are also found in private buildings. However, even so, it certainly does not mean that these problems should be tolerated because they are found in public sector housing units. Madam President, the Secretary has not answered me what assessment standards are adopted by the Government.*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I think we can get the answer to this question by looking at the real situation. So far, as we all know, as many as 700 000 to 800 000 public sector housing units have been constructed. But just how many of them are found to have problems? This can show us what the real situation is like. By "working very well", I actually mean that we should look at each and every stage of the construction process, and check whether the HD has done its job seriously. And, there is also the independent audit team, which conducts its independent monitoring work. We cannot of course claim that we have done a perfect job in all areas. But I can say that whenever problems are found, and whenever they are brought to the attention of the Government, prompt remedial actions will be taken. I think Members should also be aware that all the problems detected recently were actually first discovered by HD staff who will notify the Independent Commission Against Corruption, when necessary, so that joint actions may be taken. All this shows that the monitoring mechanism within the HD is already good enough. But we have still urged the Department and the HA to review some aspects of their work. They are right now doing so, and it is hoped that they can thus strengthen their supervision in each aspect of their work.

**MR LEE KAI-MING** (in Cantonese): *Madam President, are the construction works relating to the Private Sector Participation Scheme (PSPS) units of the HA under the ambit of the Buildings Ordinance? If so, how are these construction works monitored under the Ordinance?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, to put it simply, yes, these construction works are under the ambit of the Buildings Ordinance. In other words, they are directly monitored by the BD. The exemption enjoyed by the HD does not apply here, and the HD thus does not have any power of supervision.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, I am sure that the Secretary must have had a very hard time answering all these questions, because he has been trying to defend an indefensible case. According to him, the quality of public housing units is not that bad, because that of private sector housing is just the same. He seems to be saying that the mass media have been trying to protect private property developers by stopping short of disclosing the problems with private housing estates. I do not think that this is the case at all. Tin Chung Court is only one of the many housing estates found to have problems recently. Obviously, the quality of public sector housing estates is very poor, and many complaints about this have been received .....*

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

**MR LEE CHEUK YAN** (in Cantonese): *My question is about the Secretary's claim that the arrangement concerned "has worked well". If the "short-pile" problem in Tin Chung Court is found in housing estates constructed by private property developers, what will be the criminal liability for the developers concerned under the Buildings Ordinance? The HA enjoys exemption and it is not held liable, so it does not treat this as a serious problem. But if private property developers are involved, what will be the criminal liability for them?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, since the investigation into the Tin Chung Court case is still in progress, we are not in a position to make any specific comments at this stage. But the HA has made it very clear that it will handle this matter very seriously and conduct a thorough investigation. If the HA finds out that any contractors, surveyors or other people have neglected their duties and broken the law, it will impose appropriate

penalties on them or take appropriate disciplinary actions. Besides, let me remind Mr LEE that the problems in Tin Chung Court were also brought to light by the monitoring staff of the HD.

**MR LEE CHEUK-YAN** (in Cantonese): *My question is very simple. If such problems are found in housing estates constructed by private developers — not the contractors of the HA, what will be the criminal liability for them? This is what my question is all about.*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, as I have already explained, our investigation is still in progress. If anybody is found to have made any mistakes or been negligent, he will be held responsible, and he must pay the compensation required.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the Secretary has not answered my question. Let me perhaps rephrase my question. Under the Buildings Ordinance, in case any property developer is found to have jerry-built a building which subsequently develops problems of structural safety, what is the criminal liability for the property developer? This is the only question I want to ask.*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in case any person commits the offence specified, the Government may initiate a prosecution against that person. All ordinary property developers or contractors will be treated in the same way. There will not be any difference in treatment.

**MISS CHRISTINE LOH:** *Madam President, the original question is to do with why construction works under the HA are not under the ambit of the Buildings Ordinance. I have actually not heard an acceptable reason as to "why not". It would seem that the Government's answer is that there is no real difference, because substandard works may result in disciplinary or legal action. So I would like to ask in that case, why not have those construction works come under the law, and does the Secretary agree that for public bodies to be exempted from*

*the law would give the public bodies as well as their regulatory mechanism a bad name?*

**SECRETARY FOR HOUSING:** Madam President, I think I have given the answer in the main reply itself. The purpose of such a decision of the Government since 1973 is to enable the timely delivery of the public housing programme. The Government does not wish to see extra procedures inserted into the process in order to delay the construction of public housing programme. As a result, the HA is given the exemption from this particular ordinance. However, that does not mean that the HA is not following the standards at all. It is following the standards set out in the Buildings Ordinance. And whenever it has certain queries or certain doubts about certain regulations or anything, it will seek the advice of the BD. But the main thing is to ensure that the HA does not have to go through the same procedures as ordinary developers for the purpose of construction. Otherwise, it will be queuing up with a number of applications in Hong Kong, in order to pursue the construction of public housing programme. If that was the case, I can ensure Members that we would not have been able to build the large number of public housing estates that we have.

**MISS CHRISTINE LOH:** *Madam President, it seems that time is of the essence, and there is such haste in construction. Is that not exactly where faults have arisen in the past?*

**PRESIDENT** (in Cantonese): Miss LOH, this is not part of your supplementary question, so I cannot allow your follow-up.

This Council has spent 21 minutes on this question. So, although many Members are still waiting for their turn, I cannot possibly allow them to do so, because that will not be appropriate. And, I am sure that Members can always follow up this question through other channels.

### **Age Participation Rate for First-degree Courses**

5. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, according to the report published by the University Grants Committee (UGC) in October 1996, the age participation rate for first-degree courses in Hong Kong has reached 18% since the 1994-95 academic year. In this connection, will the Government inform this Council:*

- (a) *of the age participation rate for first-degree courses in each of the past three academic years; whether the number of first-degree places has been revised to tie in with the number of prospective students in the relevant age groups in each academic year;*
- (b) *how the above age participation rate compares with those of the developed countries or neighbouring territories; and*
- (c) *of the criteria adopted for determining the target age participation rate for first-degree courses, and whether there is any plan to review or raise the target rate; if so, of the details of that; if not, of the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):  
Madam President,

- (a) In the 1996-97, 1997-98 and 1998-99 academic years, the eight UGC-funded institutions offered a total of about 14 500 first-year first-degree (FYFD) places each year, which was provided to 17.8%, 18.4% and 18.6% of the relevant age group (that is, young people aged between 17 and 20) respectively each year. This is broadly in line with the target age participation rate of about 18% achieved in the 1994-95 academic year.
- (b) The figures in respect of the age participation rate in Hong Kong and some of the advanced countries and neighbouring territories are detailed at Appendix. As certain definitions upon which the



figures of these countries and territories are based differ from those of Hong Kong (for instance, the relevant age group in Japan refers to people aged between 20 and 24 instead of those aged between 17 and 20), it is therefore more appropriate to take these figures for reference than for direct comparison with those of Hong Kong.

- (c) In 1989, the Government set the target to increase the number of FYFD places to about 18% of the relevant age group in the 1994-95 academic year. Since the achievement of this target in the 1994-95 academic year, the Government has maintained the annual provision of FYFD places in the UGC-funded institutions at the target number of 14 500 (that is, an age participation rate of about 18%). This target number will remain unchanged in the next triennium (that is, the 2001-02 to 2003-04 academic years) due to the following reasons:
- (i) First of all, as far as quantity is concerned, the number of FYFD places offered by the UGC-funded institutions has more than quadrupled in the 10 years from 1984 to 1994. The proportion of this number to the population of the relevant age group has risen from 3.3% in 1984, 8.8% in 1989 and further to about 18% in 1994. According to the latest population projection, it is estimated that from the academic years of 1999-2000 to 2003-04, the target number of 14 500 will continue to be provided to about 18% of the relevant age group, which is broadly in line with the age participation rate set by the Government.
  - (ii) Following a long period of rapid expansion of our tertiary education, we consider that top priority should now be accorded to enhancing the quality of our tertiary students rather than increasing the number of undergraduate places. As a matter of fact, in addition to local university graduates, many of our students go abroad for further studies each year and quite a number of them return to Hong Kong for work upon graduation. Besides, there are currently some 20 600

working people taking degree or above level courses at the Open University of Hong Kong. Furthermore, it is estimated that a total of about 320 000 people (representing 10% of the working population) are pursuing various forms of higher continuing and professional education.

- (iii) In view of the employment situation of Hong Kong's university graduates in recent years and the feedback from employers, we do not see an urgent need to increase the overall supply of undergraduate places.

Although we have no plan to increase the target number of 14 500 FYFD places, we will discuss with the UGC and institutions as to how we may adjust the distribution of these places among various disciplines to tie in with the manpower demand in various fields.

#### Appendix

Provision of FYFD places in terms of percentage of the relevant age group

<i>Country/Territory</i>	<i>Percentage of the relevant age group</i>		
	<i>1996</i>	<i>1997</i>	<i>1998</i>
Hong Kong	17.8%	18.4%	18.6%
Singapore	19%	22%	Not Available
Taiwan	21.6%	Not Available	Not Available
Japan	30%	Not Available	Not Available
United Kingdom	39%	Not Available	Not Available
United States	41%	Not Available	Not Available

**MR YEUNG YIU-CHUNG** (in Cantonese): *In part (c) of the main reply, the Secretary only mentions the target rate of 18% in 1989, but he has not in fact answered my question. My question is very clear and, that is, how that standard or target was set. Why does it have to be 18% rather than 15% or 25%?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I am pleased to add a few words on that point. In 1989, after looking at the social condition and economic development at that time, the Government thought there was a need to increase the number of undergraduates substantially. In proposing such an increase, it was thought that reference should be made to neighbouring territories whose socio-economic conditions were similar to those of Hong Kong and also the appropriate figures of their respective age participation rate. In this connection, Honourable Members may like to refer to the attached table. As I have said before, we cannot make a direct comparison of these figures, but if we take a look at the figures for places like Singapore or Taiwan, their figures in respect of age participation rate are still around 19% or 21%. Therefore, when we decided to increase the number of FYFD substantially 10 years ago, that is in 1989, we set the age participation rate at 18%. We took into account the local socio-economic conditions and also those of the neighbouring territories whose socio-economic conditions were similar to ours and we looked at how many people of the relevant age group were pursuing university studies. Of course, that was not to be taken as an absolute figure, but at that time, it could be said to be a reasonable target.

**PRESIDENT** (in Cantonese): Mr YEUNG, which part of your supplementary question has not been answered?

**MR YEUNG YIU-CHUNG** (in Cantonese): *Would the Secretary give us a specific and objective criterion to show how this figure of 18% was set?*

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, actually what I said just now is already quite an objective criterion, and it is not a subjective wish on our part. Maybe I can put it this way, we do not have a formula as such which is like  $A+B+C \div X=18$ . There were two factors which we considered. First, at that time we certainly thought that

the number of undergraduates should be greatly increased. If we looked at the base number, for example at that time the participation rate was 8.8% and in making such a decision for expansion, the capability of the universities should also be considered, and that is, whether the expansion of university places could be made rapidly. Second, how much should be increased, or by how much should the participation rate be increased. And on that point, we took the figures of the neighbouring territories as a reference.

**MR JAMES TIEN** (in Cantonese): *Madam President, the business sector is very much in agreement with what the Government has stated in part (c) (ii) that top priority should now be accorded to enhancing the quality of our undergraduates rather than increasing the number of places. In part (c)(i) the Secretary said that the number of FYFD places to the population of the relevant age group was 8.8% in 1989, but that number rose to 18% in 1994. This implies that with such a large number of university graduates, there may be a decline in the quality of our graduates as mentioned in part (c) (ii). Would the Government tell us whether it has made any estimates on the number of years it takes to restore the quality of our graduates to that of their predecessors in 1989?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I am afraid this question cannot be answered in a few words, but I will try to discuss it from different angles. First, if we wish to make a substantial increase in the number of undergraduates within a very short span of time, then statistically, the average quality is bound to be lowered. Second, to be more specific, compared with the undergraduates of 1989, is the quality of our undergraduates now really lower? And in what areas are they worse off? Many people have different opinions on this. On the contrary, many people from the universities do not think that the quality of graduates these days is lower than before. The undergraduates now may have a relatively poorer command of languages, but it has been commented that in terms of information technology and computer applications, undergraduates nowadays may do better than their predecessors. I may like to add one point which I have talked about a few times here, and I think it is also something which Honourable Members are also well aware of, and that is, the Education and Manpower Bureau is conducting a

survey among employers through a consultant firm. The survey will sample local employers to see what they think of the competency and attitudes of university students nowadays. We hope that when findings of the survey are available, we can form a more objective picture with which we can assess how the community thinks of the competency of our university students.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, there is at present a serious imbalance between the number of places in the eight tertiary institutions. Some of those well-established universities like the University of Hong Kong and the Chinese University of Hong Kong have about 3 000 places each, but some of those recently upgraded universities like Lingnan and the Hong Kong Institute of Education have only a very limited number of such places. Lingnan has 724 and the Hong Kong Institute of Education has a mere 110. There appears a zero sum game of university places, that is, some of the well-established universities have to release some of their places in order that the new universities can have a chance to increase the number of their places. Does the Government not think that this will restrict the development of the new universities? For no matter hard they strive for excellence, they will not be able to enjoy a greater space for expansion if the total number of places is set at 14 500.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the number of places in each university is determined by a number of factors. First, their history and tradition. As to the number of places for well-established universities like the University of Hong Kong and the Chinese University of Hong Kong, they have more places. Apart from that, we have to consider the mission of the new universities. As for the Lingnan University which has just been mentioned by the Honourable CHEUNG Man-kwong just now, their mission is to become a model for liberal arts education. Lingnan University is like the liberal arts colleges of the United States which are characterized by a great proportion of students being on boarding and a smaller scale. I have pointed out in my main reply that the number of 14 500 was set according to manpower needs at that time and we had discussed the adjustment of the distribution of different disciplines of study with the UGC. In other words,

if for example the Government has formulated a policy to upgrade the diploma places in the Hong Kong Institute of Education to degree or above level, then it can be expected that the number of degree or above places there in the next few years will increase. As for the exact distribution, we will discuss the matter with the UGC next year before setting out the details for the next triennium.

**MR SIN CHUNG-KAI** (in Cantonese): *My supplementary question is about the appendix in the main reply. I notice that under the column for 1998, the percentage for Hong Kong is 18.6%. This is lower than the percentage respectively of the United Kingdom, the United States and Japan. Would the Government inform this Council whether it has set any targets in this regard and in which year the percentage for Hong Kong is expected to surpass that of the United Kingdom and come close to that of the United States? (Laughter)*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, we do not have any target as such that we should surpass the percentage of the United Kingdom and come close to that of the United States, for such an attempt would be only putting emphasis on figures without taking care of the quality. We will look into the age participation rate regularly to see if it ties in with the needs of the community. For example, in the next triennium, we will probably keep the age participation rate at 18%, which means about 14 500 places will be offered annually. We may, of course, look into the matter again in 2003 or 2004. In part (c) of the main reply I have explained in detail why I think this rate of 18% is appropriate. So if we want to decide whether this rate should be further increased, we need to find out whether the situation has changed. This would mean things such as whether there is a demand for it in society, whether the employers are satisfied with the quality of our graduates, whether the number of undergraduates should be increased and whether people from other countries will come here for employment and so on. We shall look into these factors from time to time. But we do not have at this moment any specific target which shows how much increase we should make on top of 18%.

**PRESIDENT** (in Cantonese): Honourable Members, we have spent more than 15 minutes on this question. Although there are many Honourable Members waiting for their turn to ask questions, I would suggest that they follow up this matter through other channels.

### **Disposal of Fallen Tree Trunks**

6. **MR HOWARD YOUNG:** *Madam President, recently, many big trees were uprooted during the onslaught of typhoons. In this connection, will the Government inform this Council:*

- (a) how the fallen tree trunks are disposed of; and*
- (b) whether it has explored the feasibility of selling these tree trunks to paper mills; if so, of its findings?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President,

- (a) There are over 740 000 trees in Hong Kong's built-up areas within the jurisdiction of the Provisional Urban Council or the Provisional Regional Council. In addition, there are over 20 million trees within country parks managed by the Agriculture and Fisheries Department.

After a typhoon, smaller trees in the built-up areas that are blown over are re-erected and restaked as far as possible. Where possible, departments will make use of the wood from trees which cannot be saved. Small quantities of wood may be used for landscape and gardening purposes. Some may be used as edging wood logs, wood sculptures and wooden pavers. A small number of larger logs may be used for recreational or educational purposes such as children's play apparatus. Other fallen tree trunks and branches are then cut into smaller pieces for disposal in landfills.

During Typhoon Cam and Typhoon York, around 37 000 trees within the built-up areas were affected. Some 27 000 of the 37 000 trees were restored. Unfortunately, around 10 000 could not be saved. About 7 000 trees in country parks also could not be saved. About five tonnes of wood was recovered for landscape, amenity and gardening purposes. We estimate that about 11 700 tonnes of fallen tree trunks and branches were eventually disposed of at landfills. This tonnage compares with about 9 000 tonnes of municipal solid waste, and 7 000 tonnes of construction and demolition waste that has to be disposed of in landfills everyday.

- (b) The Government encourages productive use or recycling of fallen tree trunks. The economic manufacture of paper from timber requires a large, continuous and nearby supply of suitable timber, as well as large quantities of land, water and energy. Furthermore, only large tree trunks of suitable species are utilized. These have to be turned into wood pulp before being used for paper production.

There are no paper mills in Hong Kong capable of turning timber into paper as these mills do not have machineries that could turn logs into wood pulp for paper production. The relatively small quantity and the unsteady supply of fallen tree trunks do not provide sufficient economic incentives for paper mill operators in Hong Kong to invest in such machineries. Nevertheless, the Administration would welcome any suggestions for more productive use of fallen trees, and is prepared to liaise with neighbouring provincial authorities or nearby countries on the possibility of exporting these materials for useful recycling processes.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, in the main reply, the Secretary said that some of the tree trunks would be disposed of in landfills. Although their quantity is more or less the same as the quantity of waste disposed every day, it is still detrimental to the environment to dump these organic materials in the landfills in the long run, since they will decompose.*



*In the last paragraph of the main reply, the Secretary said that the Government is prepared to liaise with neighbouring provincial authorities or nearby countries on the possibility of exporting these wood materials. As far as I know, some Hong Kong manufacturers have paper mills in the Mainland. Will the Government consider making initial contact to see if there are channels for exporting the wood? In my view, it would be better to give away the wood for recycling than dumping it in the landfills.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, the Government agrees with Mr YOUNG. In accordance with an agreement between the Governor of Guangdong Province and the Chief Executive, there are six areas of environmental protection and sustainable development that we have to follow up in future. One of the areas that we will explore in the working group is the possibility of giving the trees or branches collected in Hong Kong in future to paper mills in Shenzhen or South China using these kinds of timber. We will follow up this matter.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, my supplementary question is similar to that asked by Mr Howard YOUNG just now. According to the Government's estimation, about 11 700 tonnes of trees were disposed of, while only five tonnes were recovered for use. There is a big difference between over 11 100 tonnes of trees disposed of and five tonnes of wood which could be used. In the last paragraph of the main reply, it is said that there are insufficient economic incentives, meaning that the quantity of fallen trees is relatively small. However, 11 700 tonnes are by no means a small number, compared to five tonnes of wood which were recovered. In view of this proportion, when the Government talks to paper mill operators in future, what quantity would be considered as sufficient economic incentives? If there are any more typhoons in future (I hope not, of course), how many fallen trees must there be before they can be sold or given to paper mill operators?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, the five tonnes were wood processed from big trees that had fallen. Some of it was used for landscape purposes and some was used in children's parks or for making the wooden piles in zoos. It was only a small quantity. The rest was broken branches, rotten leaves and little pieces of wood, which had little use. The only use we could think of now is giving these materials to paper mills or factories that can make use of such materials in our neighbouring regions, if there are over 10 000 tonnes of them. The prerequisite is that these mills must have the machinery to process them. Otherwise, even if we provide them with broken branches, rotten leaves and small pieces of wood, they might not be able to turn them into materials for recycled paper or recycled wood. Thus, we are exploring whether the over 10 000 tonnes of trees have any real economic value and whether it is worth sending them to the mills by trucks or ship over long distances. We will have to follow up this question. 10 000 tonnes or so of trees may sound a lot. But the actual quantity that could be used by a recycled paper mill might not be that much.

**MRS SELINA CHOW:** *Madam President, in paragraph (a) of the main reply, the Secretary says that 10 000 trees in the built-up areas could not be saved. Could I ask the Secretary whether work is in hand to try to replant new trees in those spots in the built-up areas?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President, the answer is yes. It is an ongoing programme.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, after the typhoon, one observant member of the public asked me whether I had seen how shallow the roots of the fallen trees were. They were really quite fragile. I would like to ask the Secretary the same question. Does he know about this and what measures will be taken to remedy this? If we do nothing about it, next time when a typhoon comes, trees will still fall. It would be useless to replant trees.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, some trees fall because their roots are not deep enough. With a big typhoon like York, even some ancient trees were uprooted. So we could not say in general how we could minimize loss in a typhoon when planting trees in future. Nevertheless, the Agriculture and Fisheries Department and divisions under the two Municipal Councils will try to find out which trees should be planted in which area and which type of soil in order to achieve optimal results. Sometimes, the newly planted trees are surrounded by metal fences or supported by bamboo sticks. But these devices may not be able to protect the trees in strong wind. Whether deep roots can protect a tree entirely depends on the area and how the tree is planted.

**MR CHAN WING-CHAN** (in Cantonese): *Madam President, just now, we were told that tree trunks that could not be used would normally be disposed of in the landfills. If they could not be used to make paper, other than dumping them, could they be used for other purposes? How about making them into plywood boards? Of course, I am not just referring to this typhoon. If trees fall in a typhoon in future, how can we apply the concept of environmental protection mentioned in the Chief Executive's policy address? Can we use them in the developing environmental protection industries?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, in recycling, usually the larger pieces of wood left over from construction are cut into smaller pieces and compressed to make plywood boards. Another method is by processing chips of wood. For instance, the furniture manufactured in a certain country is made of wood chips. The wood is cut into small pieces and compressed in a long process. This process cannot be applied to the broken branches and rotten leaves now dumped in the landfills. These branches and leaves cannot be used this way. The only thing we can do with them is to grind them into small pieces and make recycled paper out of them. But as I said, the small quantity of wood in Hong Kong does not provide sufficient incentives for Hong Kong to invest in the machinery. Maybe some mills with such machinery could make use of them. We will follow this up.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, I do not think we are encouraging Hong Kong people to set up mills to process wood for economic benefits since there are only a few typhoons each year. But we have to assess the impact on the environment. Just now we talked about the landfills. Has the Government considered that the wood dumped at the bottom of the landfills will rot and affect the environment in future. The Government thinks that these wood materials cannot be made into paper or plywood boards. In many places in the mountains of northern Guangdong, wood is still used as fuel. Between burning trees and dumping trees in the landfills, which is more harmful to the environment? Which will lead to greater losses? If the latter is more harmful, the trees might be put to better use if they are given to the residents of those areas.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): *Madam President, I will follow up the question of air pollution caused by burning broken branches and rotten leaves, whether in Hong Kong or the Mainland. As for the landfills, any kind of waste can be disposed of in that manner, including waste that will decompose. The liquid from the decomposed waste will be processed before it is discharged. Thus, the landfill scheme already minimizes the harmful effects of decomposed waste.*

**PRESIDENT** (in Cantonese): *Question time shall end here.*

## **WRITTEN ANSWERS TO QUESTIONS**

### **New Items of Social Welfare Service**

7. **MR LAW CHI-KWONG** (in Chinese): *Madam President, will the Government inform this Council of the new items of social welfare service intended to be implemented in the next three years as well as the resources involved?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Madam President, the new welfare service units which the Social Welfare Department (SWD) plans to introduce, and the estimated resources involved in providing these in the next three years is at Annex, for Members' reference. This list is, however, subject to individual Service reviews and the availability of funds in future Estimates exercises which might lead to adjustments to the services being provided.

Annex

New Welfare Service Units Planned to be Introduced in 2000-01 to 2002-03

<i>Programme</i>	<i>Service</i>	<i>Unit</i>	<i>New service units</i>	
			<i>planned to be introduced by SWD in 2000-01 to 2002-03</i>	<i>Estimated Full-year Cost (\$M)</i>
Rehabilitation	1. Day Care and Residential places for people with disabilities	place	1 500	102.2
	2. Supported Employment	place	200	
Family and Child Welfare	1. Child Protection	worker	7	
	2. Day Nursery	place	1 500	12.9
	3. Family Education	worker	20	
Young People	1. School Social Work	worker	12	7.5
Elderly Services	1. Day Care Centre	centre	6	
	2. Multi-services Centre	centre	5	
	3. Residential Care Homes	place	2 500	255.5
	4. Social Centre	centre	9	
	5. Support Team	team	2	
			Total:	378.1

## Software Asset Management Practices

8. **MR SIN CHUNG-KAI:** *Madam President, the widespread unauthorized use of software in organizations will hinder the development of the software industry in Hong Kong. In this connection, will the Government inform this Council whether:*

- (a) *all government departments have adopted proper software asset management (SAM) practices; if so, of the details of the SAM practices adopted; if not, whether and when they will adopt such practices so as to set a good example;*
- (b) *it has plans to promote the adoption of proper SAM practices in the private sector; if so, of the timetable in respect of the promotion exercise; if not, of the reasons for that; and*
- (c) *it will require bidders of the government contracts to certify that they have adopted proper SAM practices to prevent the unauthorized use of software in their companies?*

## **SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING:** Madam President,

- (a) The Administration places emphasis on the proper management and use of computer software in government offices. Since 1990, the Information Technology and Services Department (ITSD) and the Intellectual Property Department (IPD) have promulgated internal circulars and guidelines on proper SAM practices to bureaux and departments. Such practices include:
  - Use only authorized software. Unauthorized software will be removed immediately from the computers concerned. Bureaux and departments remind computer users periodically by re-circulating the relevant circulars and guidelines.

- Acquire software legitimately. Bureaux and departments follow appropriately defined processes to ensure that all software is obtained officially from authorized dealers/suppliers.
- Maintain an up-to-date software inventory and regularly take inventory of software licences purchased, being used and disposed of to ensure that an up-to-date and consistent record is kept.
- Define procedures for installing and distributing software and conduct periodic software assets reviews and audits to ensure that the number of installed software copies does not exceed the number of software licences purchased.
- Confirm the legality of all software used and verify the legality of all software currently residing on users' computers through regular/random spot checks or by using software inventory tools.

The ITSD and the Civil Service Training and Development Institute jointly organize regular seminars to promote awareness and understanding of SAM concepts and practices in bureaux and departments.

- (b) The Government promotes proper SAM practices as part of its ongoing efforts in enhancing awareness of intellectual property rights protection. Such efforts cover both the public and the private sectors. For example, the IPD and the Home Affairs Department are now staging the "Get Real Campaign" which promotes the anti-piracy message by means of road shows in various districts in Hong Kong. In June this year, the Customs and Excise Department and the Business Software Alliance jointly launched a "Genuine Software Action Campaign" to award those companies with good SAM system so as to encourage more local companies to follow suit. We will continue with these promotional activities.

- (c) The Administration is considering a proposal to introduce a requirement for intellectual property rights protection in government contracts. Under the proposal, government vendors would be required to certify that they do not engage in unauthorized use of software and that they have adopted proper SAM practices.

### **Increasing the Efficiency of Traffic Management**

9. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the use of new technology to increase the efficiency of traffic management, will the Government inform this Council:*

- (a) *whether it plans to install green signal countdown displays adjacent to the traffic lights to allow motorists sufficient time to get prepared; if not, of the reasons for that; and*
- (b) *of the existing locations in Hong Kong where Intelligent Transport Systems have been installed to give motorists updated traffic information on the roads ahead; whether the Administration plans to install such systems at other locations; if so, of the details and schedule of its plan and the criteria for selecting such locations?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President,

- (a) As far as we are aware, the green signal countdown timers available in the market at this point operate on a fixed, pre-set mode. Our traffic lights, on the other hand, are adjusted automatically according to traffic condition and vehicle flow, which involve variation to the red and green phase of a signal cycle. The two systems are currently incompatible and if used together will cause confusion to the motorists. We will, however, continue to monitor developments in this area and will be prepared to look into the need and feasibility of installing countdown timers when technology has advanced to a state where the two systems can be synchronized.



- (b) All Intelligent Transport System consists of a range of facilities including closed circuit television system, auto-toll system, speed enforcement cameras, red light cameras, variable message signs and lane control signals. At present, the Intelligent Transport System operating in the Tsing Ma Control Area advises motorists on the latest traffic conditions on the road sections ahead by means of variable message signs. We plan to install similar facilities on all newly constructed major roads. When improvement or reconstruction works are undertaken on existing major roads, we will also carefully consider the feasibility of retrofitting such facilities having regard to the technical and cost implications.

### **Research on Urban Skyline Profiles**

10. **MR HOWARD YOUNG:** *Madam President, the Chief Executive mentioned in his policy address this year that the Government will make land available along the waterfront to construct promenades and walkways so that residents and visitors can stroll along them to enjoy the beautiful scenery and refreshing sea breeze. In this connection, will the Government inform this Council if it has commissioned or sponsored any research on the urban skyline profiles on both sides of the Victoria Harbour, which will contribute significantly to the vistas and views from the promenades; if so, of the current progress or findings of the research; if not, of the reasons for that?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President, in February 1998, the Government commissioned a Consultancy Study on "Urban Design Guidelines for Hong Kong" to look into the various factors that could enhance the attractiveness of our cityscape. Building height profile is one of the factors that the Study would research into. We aim to complete the Study in 2000 and before our consultants draw up their final recommendations, the public and key stakeholders would be duty consulted.

In parallel, to take forward the undertaking made by the Chief Executive in his 1999 policy address to create a new look for our Victoria Harbour, we are currently drawing up the details of an open competition for the future development of the key waterfront areas on both sides of the Victoria Harbour.

**Emission Tests on Imported Vehicles**

11. **MRS MIRIAM LAU** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the procedure adopted for ensuring that vehicles intended to be imported for use in Hong Kong are in compliance with the emission standards stipulated by the laws of Hong Kong, and whether chassis dynamometers have been used to conduct sample emission tests on each shipment of imported vehicles; and*
- (b) *the follow-up measures in place to regulate vehicles of a particular model which are found to have excessive levels of emissions after being used for only a brief period?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Chinese): Madam President,

- (a) The Air Pollution Control (Vehicle Design Standards) (Emission) Regulations stipulate that all vehicles must comply with the emission standards set out in the Schedules to the Regulation before they can be registered in Hong Kong. The vehicles are required to meet the emission limit for different pollutants under the prescribed procedures in the Schedules.

To ensure that vehicles intended to be imported for use in Hong Kong are in compliance with the emission standards stipulated in the above Regulation, the Environmental Protection Department (EPD) adopts a type approval system which is a practice currently adopted in many other countries such as the European Union, Japan and Singapore. Under this type approval system, for every model of vehicle intended to be imported to Hong Kong, the vehicle manufacturer will have to provide emission testing report which certifies that this vehicle model has been tested to be in compliance with our emission standards. The tests should be carried out in

accredited laboratories which are either approved by their own government or an internationally accredited appraising agent such as Vehicle Certification Agency of the United Kingdom, TUV of Germany, and so on.

There are other vehicles being imported to Hong Kong directly from their place of origin by parties other than the vehicle manufacturers' authorized dealers. While these vehicles may have the same appearance and bear the same model name as those which have been typed approved, they can be designed to meet emissions standards which are different than the type approved models. To ensure that these vehicles meet our emission requirements, each of them will have to be accompanied by an emission testing report which certifies compliance with our emission requirements from an accredited vehicle emission testing laboratory before the vehicle concerned can be registered in Hong Kong.

The vehicle emission tests are conducted by accredited laboratories which are either approved by their government or an internationally accredited appraising agent. Dynamometers are used as part of the emission tests by the accredited laboratories and the results are included in the emission testing report for the vehicles. We do not consider it necessary to use dynamometer to conduct sample emission tests for imported vehicles which already carry such an emission testing report from accredited laboratories.

- (b) Under the local intensive driving environment, frequent and proper engine servicing is of paramount importance to keep emissions to the minimum. In addition, improper operation of vehicles such as poor driving habits and use of substandard fuels could also lead to excessive vehicle emissions. If there is any indication that a vehicle model has emission problem due to defects in design, we would investigate the case and review the type approval given to that model. If there is sufficient evidence which shows that excessive emissions are caused by defective design, the EPD will cancel its type approval. So far, we have not established any case that a vehicle model is

unable to meet its designed emission standards, with good maintenance and proper operation.

### **Ways for Treating Medical Waste**

12. **MISS CYD HO:** *Madam President, it is learnt that medical waste incinerators in advanced countries are being closed down and replaced with more cost-effective and less polluting facilities, such as autoclaves and microwave systems. In this connection, will the Government inform this Council whether:*

- (a) it will consider alternatives to incinerators in treating medical waste; if so, of the details of the alternatives; if not, of the reasons for that; and*
- (b) it will conduct a feasibility study on using autoclaves and microwave systems for treating medical waste in Hong Kong; if so, of the details of the feasibility study; if not, of the reasons for that?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President, many developed countries are phasing out old waste incinerators because they do not meet modern emission standards. Hong Kong has already decommissioned its old municipal waste incinerators. However, incinerators using advanced pollution control technologies remain a mainstream waste disposal practice in countries such as Germany, the United Kingdom, Singapore and Japan.

- (a) Clinical wastes are potentially hazardous and infectious and need to be handled carefully to safeguard the public, health care workers and waste management operators. The Government has examined various disposal options including:

- 
- (i) Landfills: At present, most of our clinical waste is disposed of in landfills. In landfills, the potentially harmful materials are covered but not totally destroyed. This requires particular care on the part of landfill operators and necessitates more demanding leachate treatment.
  - (ii) Autoclaves: An autoclave is a strong, pressurized, steam-heated vessel used for sterilization purposes. Autoclaves are effective in disinfecting medical instruments and laboratory cultures. Some hospitals are already using autoclaves to treat small quantities of clinical waste generated by the clinical laboratories. However, autoclaving does not adequately deal with other clinical wastes including body parts, or sharps such as syringes and scalpels.
  - (iii) Microwave systems: Microwave systems are also effective in killing bacteria but are not suitable for disposal of all types of clinical waste. For example, body parts, and metallic instruments cannot be treated in microwave facilities.
- (b) Incineration in modern, properly controlled facilities is a suitable method to dispose of virtually all types of clinical waste. Treatment by autoclaves and microwave systems may be used as pre-treatment methods prior to incineration or to reduce the volume of material needing incineration. They can complement, but not replace incineration. The Government already encourages the introduction and use of new treatment and disposal technologies. We are considering the need and practicability to amending the Waste Disposal Ordinance to enable the Director of Environmental Protection to grant licences for the operation of disposal facilities using modern technologies. The Director will do so only if he is satisfied that environmental and public health concerns are fully and properly addressed and that proper operational controls are in place.

**Pilot Project on Integrated Education**

13. **MR LAW CHI-KWONG** (in Chinese): *Madam President, a two-year pilot project on integrated education was implemented in September 1997 to enable students with special education needs to study in mainstream schools. In this connection, will the Government inform this Council whether the steering group of the pilot project will be disbanded following the completion of the project;*

- (a) *if so, whether it plans to set up a new group to oversee the implementation and development of integrated education;*
  - (i) *if it does, of the launch date, the composition and the terms of reference of the group; and*
  - (ii) *if it does not, how it will ensure that the views of interested bodies will be fully considered and duly adopted in formulating and implementing the various policies on integrated education; and*
- (b) *if not, of the changes that will be made in the composition and the terms of reference of the steering group?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): *Madam President, the Education Department (ED) launched a two-year pilot project in September 1997 on the integration of children with special educational needs in nine schools, and at the same time set up a steering group to monitor the implementation of the pilot project and to review its effectiveness. The pilot project came to an end at the close of the 1998-99 school year, and the steering group submitted to the ED in July this year its proposals on the future development of integrated education. On completion of its task, the steering group was dissolved.*

To strengthen the advisory role of the Board of Education in the implementation of school education policies, the Board will advise the ED on matters relating to the implementation and future development of integrated education.

**Teacher-to-student Ratios of Tertiary Institutions**

14. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, will the Government inform this Council of the teacher-to-student ratio and the average cost incurred per student in each of the tertiary institutions under the aegis of the University Grants Committee (UGC); and how such figures compare to the average figures of tertiary institutions in advanced countries in Europe and America as well as neighbouring territories?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, the latest student-to-teacher ratios and the annual student unit costs for the UGC-funded institutions with corresponding figures in selected advanced countries are shown in Tables 1 and 2 below respectively. The figures of the selected advanced countries (except Singapore) are extracted from a report published by the Organization of Economic Co-operation and Development (OECD), entitled "Education at a Glance OECD Indicators 1998".

In view of the different socio-economic situation as well as the different size, complexity and models of higher education systems in the selected countries, figures on student-to-teacher ratios and student unit costs quoted from these countries are not directly comparable with those of Hong Kong. Besides, there are also technical differences between the two sets of figures. For example, the student unit costs of the selected countries are figures based on purchasing-power-parity (PPP) exchange rates, which are rates of currency conversion which eliminate the differences in price levels among countries, but the student unit costs figures of the UGC-funded institutions are not PPP figures.

It should also be noted that the difference in student-to-teacher ratio and student unit cost between individual UGC-funded institutions result from a variety of factors such as the differences in programmes offered, in modes and levels of studies as well as in the stages of development of the institutions concerned.

Table 1

## Student-to-teacher Ratio for Higher Education

	<i>Student-to-teacher ratio</i> <sup>Note</sup>	
	1996	1998
<i>UGC-funded Institutions</i>		
City University of Hong Kong (CityU)	15.0	14.6
Hong Kong Baptist University (HKBU)	13.3	13.0
Lingnan University (LU)	15.2	16.1
Chinese University of Hong Kong (CUHK)	9.3	9.2
Hong Kong Institute of Education (HKIED)	11.8	12.5
Hong Kong Polytechnic University (PolyU)	13.4	13.7
Hong Kong University of Science and Technology (HKUST)	12.5	12.1
University of Hong Kong (HKU)	10.8	11.0
Overall ratio of UGC-funded institutions	12.1	12.1
<i>Selected Countries</i>		
United States	14.1	Not Available
United Kingdom	16.7	Not Available
Australia	15.4	Not Available
Canada	16.4	Not Available
Japan	13.5	Not Available
Singapore	Not Available	16.5

*Note:*

Student-to-teacher ratios for the United States, Australia, Canada, Japan and Singapore refer to degree and above levels only, while the ratios for the United Kingdom and the UGC-funded institutions refer to all levels of tertiary education.



Table 2

## Student Unit Cost for Higher Education

	<i>Annual student unit cost</i> <sup>Note 1</sup>	
	<i>HK(\$'000)</i>	
	<i>1995-96</i>	<i>1997-98</i>
<i>UGC-funded institutions</i>		
CityU	138	171
HKBU	152	203
LU	147	163
CUHK	238	282
HKIED	Not Available <sup>Note 2</sup>	177
PolyU	140	204
HKUST	270	313
HKU	240	291
Overall student unit cost UGC-funded institutions	191 (US\$24,487)	233 (US\$29,872)

*US\$* <sup>Note 3</sup>  
(based on PPP Exchange Rates)  
*1995-96*                      *1997-98*

*Selected Countries*

United States	19,965	Not Available
United Kingdom	7,225	Not Available
Australia	11,572	Not Available
Canada	12,217	Not Available
Japan	9,337	Not Available
Singapore	Not Available	Not Available

*Notes:*

1. Annual student unit costs for the United States, Australia, Canada and Japan refer to degree and above levels only, while the costs for the United Kingdom and the UGC-funded institutions refer to all levels of tertiary education.
2. The HKIED was not under the aegis of the UGC until 1 July 1996.
3. The student unit costs of the selected countries are figures based on PPP exchange rates, which are rates of currency conversion which eliminate the differences in price levels among countries. The student unit costs figures of the UGC-funded institutions are not PPP figures.

### **Promoting Pre-school Education**

15. **DR DAVID LI:** *Madam President, the Government has taken measures to raise the qualifications of kindergarten teachers and principals since 1996. In this connection, will the Government inform this Council whether it will consider allocating more financial resources to promote pre-school education?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, the Government has all along been promoting the development of high quality kindergarten education. Although early childhood education is not part of nine-year free education, huge resources have been invested by the Government each year in this area. Take 1999-2000 as an example, we have earmarked \$139 million for the Kindergarten Subsidy Scheme to help kindergartens employ qualified teachers. We have also earmarked \$454 million to help needy parents pay kindergarten school fees. In addition, the Government will continue to reimburse rent and rates to non-profit-making kindergartens and \$183.8 million has been reserved in 1999-2000 for this purpose.

We will continue to enhance the quality of kindergarten education through upgrading the qualifications of kindergarten principals and teachers. We will require at least 50% of teachers in kindergartens to be qualified kindergarten teachers by September 1999 and at least 60% by September 2000. We have also announced in this year's policy address that the target date of requiring all newly recruited kindergarten principals to have completed the Certificate in Kindergarten Education course will be advanced by two years.

We will continue to actively consider any proposals to raise the quality of pre-school education in future resource allocation exercises and in the light of other competing demands for additional resources.

### **Deployment of Company Workers from Xiamen**

16. **MR MICHAEL HO** (in Chinese): *Madam President, it is learnt that the Hong Kong Aircraft Engineering Company Limited has deployed a number of workers from Xiamen during the recent strike by its employees. In this connection, will the Government inform this Council:*

- (a) *whether it knows the types of jobs in which these workers were engaged;*
- (b) *whether they are residents of the Hong Kong Special Administrative Region (SAR); and*
- (c) *if they are not SAR residents,*
  - (i) *whether they are required to possess valid employment visas for working in Hong Kong; and*
  - (ii) *the legal basis for permitting them to work in Hong Kong?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President,

- (a) According to information provided by the Hong Kong Aircraft Engineering Company Limited, workers deployed from Xiamen were performing duties in support of its Line Maintenance (ramp) operation.

Generally speaking, Line Maintenance (ramp) operation can be divided into Airframe, Engine and Avionics trades. Duties include visual inspection of aircraft, checking of aircraft brakes and testing of aircraft navigation light and so on.

- (b) and (c)

These workers are residents of the SAR.

### **Passenger Trips of MTR**

17. **MR LAU KONG-WAH** (in Chinese): *Madam President, will the Government inform this Council whether it knows:*

- (a) *the respective numbers of passenger trips at peak hours and off-peak hours during the five-month period subsequent to the reduction of train frequencies by the Mass Transit Railway (MTR) Corporation, as compared to the corresponding figures in the preceding five-month period;*
- (b) *the number of passenger trips at peak hours during the three-month period subsequent to the withdrawal of the Staggered Hours Discount by the MTR Corporation, as compared to the corresponding figure in the preceding three-month period;*
- (c) *if the MTR Corporation will conduct a review and take remedial measures, such as adjusting train frequencies, should it be confirmed that the number of passenger trips has dropped when compared to the preceding periods; and*

- (d) *a breakdown, by the MTR lines, of the monthly passenger trips in each of the past 36 months?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President,

- (a) Earlier this year from 12 April 1999, the MTR Corporation made an adjustment to train frequencies to match changes in passenger demand. The adjustment resulted in no more than 10 seconds additional waiting time for passengers during peak hours. During non-peak hours, the maximum additional waiting time is one minute whilst for most passengers, the extra waiting time ranged only from 10 to 20 seconds. Daily average trips recorded during different time periods for the five months prior to and after the frequency adjustment are as follows:

<i>Time Period</i>	<i>November 1998 - March 1999</i>	<i>May 1999 - September 1999</i>	<i>Change</i>
Morning Peak (0701-0945)	563 993	527 791	-6.4%
Evening Peak (1546-1930)	735 971	708 573	-3.7%
Non-Peak	1 031 549	1 041 602	+0.97%
Total	2 331 513	2 277 966	-2.3%

The MTR patronage has been affected by the prevailing economic conditions and the increased competition from bus operators. There is no evidence to suggest that the adjustment in train frequencies has contributed to the mild reduction in passenger numbers.

- (b) The commissioning of the Tung Chung Line has effectively eased the peak hour congestion down the Nathan Road Corridor. The Corporation decided that the Staggered Hours Discount was no longer required and the discount was removed from 1 July 1999. Daily average trips recorded during different time periods prior to and after the adjustment are as follows:

<i>Time Period</i>	<i>April - June Average</i>	<i>July - September Average</i>	<i>Change</i>
Before 0800	210 711	220 295	+4.5%
0801-0900	257 183	265 371	+3.2%
0901-0930	89 437	84 861	-5.1%

- (c) The MTR Corporation regularly reviews and adjusts train frequencies to meet changes in ridership pattern and to ensure that passenger demands are adequately met.
- (d) As passengers may enter from one MTR line and exit from another, it is not possible to break down passenger numbers by individual line.

### **Appointing Patients' Representatives as Members of Compensation Boards**

18. **DR LEONG CHE-HUNG:** *Madam President, will the Administration inform this Council whether there are plans to appoint patients' representatives as members of the Pneumoconiosis Compensation Fund Board and Occupational Deafness Compensation Board; if so, of the target date of such appointments; if not, of the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, there are no plans to appoint patients' representatives as members of the Pneumoconiosis Compensation Fund Board and the Occupational Deafness Compensation Board. The current composition of the two Boards comprises representatives from employers, employees, professionals and the Government. There are two employee representatives on each Board who can reflect the views of employees in general and address the needs of patients in particular.

It is for the Boards to consider taking additional measure, where appropriate, to involve patients in formulating any particular programmes or activities. For example, the Pneumoconiosis Compensation Fund Board has co-opted a pneumoconiotic patient to sit on its Education and Publicity Subcommittee since 1996. We would also ask the Occupational Deafness Compensation Board to consider whether there is a similar need to co-opt a patient to sit on its subcommittees.

### **Operation of the Small and Medium Enterprises Committee**

19. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, with regard to the operation of the small and medium enterprises (SMEs) Committee (the Committee), will the Government inform this Council:*

- (a) *of the total number of meetings held by the Committee since its establishment, the topics and major contents of its discussions; whether the Committee has initiated studies on the relevant policies adopted at present, including the proposal to increase the amount of guarantee for loans provided under the \$2.5 billion Special Finance Scheme for SMEs, discussed and responded to the policies on which it has been consulted, and made new policy proposals to the authority concerned;*
- (b) *whether it plans to review the operation, functions and membership of the Committee, so as to strengthen the latter's role in supporting and promoting the development of SMEs;*
- (c) *of the amount of funds allocated to the Committee since its establishment, and the usage of such funds; and*

- (d) *whether the Committee has obtained any support or services from the SME Office since the latter's establishment; and the relationship and division of responsibilities between them?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Chinese): Madam President,

- (a) The Committee has held 15 meetings since its establishment in July 1996.

The Committee has discussed a number of topics of concern to SMEs including the support offered by the Government and major industry-support bodies in eight areas, namely, human resources development, finance, technology support, market access, information services, quality assurance, environmental support and infrastructural support.

In the area of finance, the Committee has offered useful advice to the Government on the introduction of the pilot Credit Guarantee Scheme, the Special Finance Scheme for SMEs and the subsequent reviews of the schemes. The Committee has also been consulted on a wide range of other issues. Examples include Hong Kong's manpower training; the Trade Effluent Surcharge Scheme and the Draft Waste Reduction Plan; Study on Sustainable Development for the 21st Century; and the setting up of an SME Office in Industry Department, an SME Centre in the Hong Kong Productivity Council and a Business Start-up Centre in the Vocational Training Council. Members of the Committee are free to suggest topics for discussion. The advice of the Committee on various issues is forwarded to the relevant government bureaux/departments and industry-support organizations for consideration.

- (b) The Committee is an advisory body. It has been serving well its purpose of supporting and promoting the development of SMEs and we have no plans to change its nature and mode of operation. The current term of appointment of the Committee will expire on 30 June 2000. We will review the membership of the Committee nearer the time.



- (c) The Committee is not an executive body and not a recipient of government funding. Nevertheless, it has since its inception initiated a number of projects including:
- (i) the publication of a comprehensive directory on the services and facilities available to SMEs in September 1997;
  - (ii) the organization of an SME Day in 1997 and an SME Week in 1999 to publicize the services for SMEs and to promote interaction among SMEs, industry-support organizations and trade and industry associations; and
  - (iii) the organization of the first SME Award in 1999 to recognize business excellence among SMEs.

The Industry Department has provided the executive support for the implementation of these projects at a total cost of around \$2.4 million.

- (d) The SME Office is an arm of the Industry Department. The Committee, on the other hand, is an advisory body of the Government. One of the functions of the SME Office is to support and service the Committee which aims to identify issues affecting the development of the SMEs in Hong Kong and make suggestions to the Government on measures to support and facilitate their development. The other major functions of the SME Office include:
- (i) developing initiatives and programmes of services to enhance the competitiveness of SMEs and their long-term development;
  - (ii) co-ordinating the efforts of the public sector and industry-support organizations in supporting the development of SMEs and meeting their needs;
  - (iii) providing one-stop information services on current services to SMEs provided by relevant organizations;

- (iv) providing a formal channel of communication between the Government and SMEs and organizations representing SMEs; and
- (v) participating in and supporting SME-related activities of the Asia Pacific Economic Co-operation.

### **Moral Values of Young People**

20. **MR LEE KAI-MING** (in Chinese): *Madam President, it was reported that a 13-year-old girl in school uniform and an 18-year-old young man had committed an indecent act in a public place. Meanwhile, a survey shows that almost 60% of the young people surveyed are agreeable to abortion, while 15% opine that teenagers between the ages of 13 and 16 may have sex. In this connection, will the Government inform this Council whether it has any plan to:*

- (a) *help young people develop moral values generally acceptable to the community; and*
- (b) *step up efforts to promote sex education among the youths?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President,

- (a) The Government, through the Education Department and the Social Welfare Department and in consultation with the Commission on Youth and the Committee on the Promotion of Civic Education, has developed and implemented a range of initiatives to help young people develop moral values that are generally acceptable to the community.

At present, primary and secondary schools are provided with Student Guidance Officers/Student Guidance Teachers and School Social Workers respectively to implement school-based developmental guidance programmes that help students develop socially acceptable attitudes and behaviour. In addition, schools have been encouraged to adopt the Whole-School Approach to

Guidance since 1992. This approach emphasizes the involvement of all teachers and school personnel to work together to create a caring school environment, in which positive values and behaviour among students are fostered and reinforced.

Within the school curriculum, elements of moral education permeate a wide range of subjects at primary and secondary levels. Seminars and courses are regularly organized for principals and teachers of primary and secondary schools to enhance their professional knowledge and skills of developing socially acceptable values among students. Curriculum resources have been distributed to schools to facilitate their work. Examples include teaching and learning packages such as "Positive Attitudes Towards Life", "Personal and Social Education", "Sex and the Mass Media" and "Towards a Fruitful Life". A special series of publication entitled "Moral Education Reference Materials" are also issued to schools from time to time for teachers' use.

Over the years, the Education Department has organized many activities and events to promote moral education. In the last school year, the inter-school civic education competition "Towards a Society for All Ages" and the "Character Achievement Scheme" were organized.

The Department is currently developing a framework on Personal and Social Education to assist schools to plan their curriculum in relation to students' personal social development. Moral education is one of the important dimensions in this framework.

To complement sex education provided to youths in schools, the Social Welfare Department has also been actively providing a variety of services to help young people develop positive socially acceptable moral values. One of such services is socialization training provided in children and youth centres. It covers a range of subjects, including the building of self-image and personal values, promoting an understanding of relationship between the sexes and proper sex attitude and nurturing among young people other positive moral values.

In April 1999, we published the report on the Review of School Social Work Service. The report recommended, among other things, that school social workers should actively participate in the work of Parent-Teacher Associations to encourage parents to inculcate proper moral values and to provide necessary support to parents accordingly. More recently, the Commission on Youth has commissioned a short trailer for television to promote the Charter for youth in general and the positive values enshrined in the Charter in particular.

- (b) Promoting sex education in youths has always been a major concern of the Education Department and the Social Welfare Department.

To start with, Sex Education is an integral part of school education. Measures taken by the Education Department in this area include the provision of teaching resources and teacher development, using information technology to promote sex education and implementation of curriculum reforms.

As regards the provision of teaching resources, the Education Department issued the *Guidelines on Sex Education for Secondary Schools* in 1986 and has been producing teaching packages on sex education since then. In late 1997, the *Guidelines on Sex Education in School* were distributed to all kindergartens, primary and secondary schools in Hong Kong. The teaching resources recently produced include: "Personal and Social Education", "Sex and the Mass Media", and "Sex Education Teaching Kit for Kindergartens". New teaching resources entitled "Teaching Kit on the Prevention of Sex Abuse, Harassment and Violence" are now being prepared. They will be distributed to kindergartens, primary and secondary schools in the next academic year. The teaching kit on AIDS education for secondary schools will also be updated. A software package on sex education for students with special education needs, targeting at the mentally retarded students, is being produced. Two series of Education Television programmes on sex education are being prepared. The first one on sexually transmitted diseases has already been broadcast in July 1999. The others will be about sex and reproduction, adolescence, making friends, and pre-marital sex among teenagers.

As regards teacher development, seminars, courses and workshops have been organized for school heads and teachers to familiarize them with the content of the Guidelines, the implementation strategies as well as the teaching approaches. These courses are organized by either the Advisory Inspectorate Division, the Curriculum Development Institute or the non-governmental organizations and tertiary institutions. The aim of these seminars, courses and workshops is to enhance the professional knowledge and skills of teachers and school heads in relation to sex education.

The Education Department is planning to put on its homepage "good practices" adopted in schools which have successfully organized sex education programmes to facilitate sharing of experience. A CD-ROM on these "good practices" will also be produced and issued to schools.

Under the Holistic Review of the School Curriculum, schools are encouraged to engage students in projects or different learning activities to enhance their self-understanding and to learn to respect and co-operate with the other sex. They are also encouraged to provide students with opportunities to visit, or to do voluntary work, in organizations such as Family Planning Association, Mothers' Choice, Boys' and Girls' Clubs Association and Against Child Abuse. We believe that these learning experiences will be beneficial to the students' understanding of and reflection on their values and behaviour in relation to sex education.

The Social Welfare Department and other subvented non-governmental organizations have also been organizing family life education programmes. One component of family life education is to promote sex education and responsibility in sexual relationship through various activities such as seminars, forums, exhibition, workshops, training and media programmes. Relevant topics include differences between the two sexes, sex attitudes, issues relating to child birth and parenting as well as family planning.

The Social Welfare Department has also produced a sex education training kit for parents and the public generally to encourage and help parents guide their children to acquire proper sex knowledge. In addition, the Department of Health, through the assistance of the medical sector, is also providing family casework counselling for underaged mothers and young girls who have undergone abortion. More workshops on sex education are being organized and a sex education resource corner has been set up for social workers and teachers.

## **BILLS**

### **First Reading of Bill**

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

### **PROTECTION OF THE HARBOUR (AMENDMENT) BILL 1999**

**CLERK** (in Cantonese): Protection of the Harbour (Amendment) Bill 1999.

*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**

**PRESIDENT** (in Cantonese): Bills: Second Reading.

### **PROTECTION OF THE HARBOUR (AMENDMENT) BILL 1999**

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, I move that the Protection of the Harbour (Amendment) Bill 1999 be read the Second time.

The Victoria Harbour is a precious natural heritage of Hong Kong. The Government and the community share a common wish to well-protect and treasure our harbour, our natural gift. In his policy address this year, the Chief Executive has announced the Government's policy objective of protecting the harbour and enhancing the scenic views on both sides of it. The Town Planning Board has also recognized the importance of preserving and protecting the harbour, and has finalized the statement of "Vision and Goals for the Victoria Harbour" following public consultation.

The "presumption against reclamation" under the existing Protection of the Harbour Ordinance is only applicable to the "harbour" surrounded roughly by the Western Harbour Crossing and Hung Hom - North Point. Having noticed the inadequacy of the Ordinance, the Honourable Miss Christine LOH proposed in June 1999 to this Council a Members' Bill to extend the geographical scope of the Ordinance to Lei Yue Mun at the east and to Tsing Yi at the west. The Administration fully agrees to the objectives of the Members' Bill and, after discussions with Miss LOH, decided to submit the proposed amendment to the Council as a Government Bill. I wish to thank Miss LOH for her proposal.

Now I would like to introduce the Protection of the Harbour (Amendment) Bill 1999 to this Council. The proposed Bill seeks to extend the geographical scope under the existing Ordinance so that the whole "Harbour" will be protected by the Ordinance. The enactment of the Bill will provide a better legal footing for protecting the Harbour. The Environmental Affairs Panel of the Legislative Council has already rendered support to the Bill. To enhance the protection of the Victoria Harbour, I look forward to Members' support and the early passage of the Bill.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Protection of the Harbour (Amendment) Bill 1999 be read the Second time.

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

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): Council will now resume the Second Reading debate on the Adaptation of Laws (No. 25) Bill 1999.

**ADAPTATION OF LAWS (NO. 25) BILL 1999****Resumption of debate on Second Reading which was moved on 14 July 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 25) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 25) Bill 1999.

Council went into Committee.



**Committee Stage**

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

**ADAPTATION OF LAWS (NO. 25) BILL 1999**

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 25) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 12.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bill**

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

### **ADAPTATION OF LAWS (No. 25) BILL 1999**

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, the

Adaptation of Laws (No. 25) Bill 1999

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

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 25) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 25) Bill 1999.

### **Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): Council will now resume the Second Reading debate on the Electricity (Amendment) Bill 1999 now.

### **ELECTRICITY (AMENDMENT) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 27 January 1999**

**PRESIDENT** (in Cantonese): Under the Rules of Procedure, I have permitted Mr Fred LI, Chairman of the Bills Committee on the Electricity (Amendment) Bill 1999, to address the Council on the Committee's Report.

**MR FRED LI** (in Cantonese): Madam President, I would like to highlight the deliberations of the Bills Committee concerning the report of the Bills Committee on the Electricity (Amendment) Bill 1999 in my capacity as Chairman of the Bills Committee.

The Bill seeks to require contractors to take reasonable measures to ascertain the existence and alignment of electricity supply lines before carrying out works in the vicinity of such lines and to include penalty provisions in order to achieve a deterrent effect.

After the Bill is passed into law, an Electricity Supply Lines (Protection) Regulation will be made under the Ordinance in due course. Hence the Bills Committee has also studied the draft Regulation during the course of scrutiny and invited 40 trade bodies and other interested parties to give views on the provisions. I would like to take this opportunity to thank them on behalf of the Bills Committee.

The Bills Committee supports the introduction of provisions in the Electricity Ordinance (Cap. 406) to protect electricity supply lines from damage arising out of works. However, the Bills Committee is also concerned about the difficulties faced by contractors, particularly smaller firms, in complying with the requirements proposed in the Bill. As specified in the proposed Regulation, when carrying out works activities in the vicinity of electricity supply lines, a contractor should obtain relevant plans from the power company concerned showing the locations of any underground electricity cables around the site. The contractor should also employ a "competent person" to locate the underground electricity cables and follow the procedures as set out in the Code of Practice on Working near Electricity Supply Lines (Code of Practice). According to the Administration, a competent person can identify accurately the position of any underground electricity cables with the help of a cable locator. After sighting the operation of a cable locator at a construction site, members are satisfied with the accuracy, handiness and ease of operation of the locator.

As to the concern about whether there would be sufficient competent persons available to the industry, the Administration advises that to register as a competent person, an employee of the contractor needs only to attend a two-day training course provided by the Construction Industry Training Authority. It is estimated that before the proposed Regulation comes into effect, there would be about 1 000 competent persons. Taking into account the total number of sites involving works carried out in the vicinity of underground electricity cables at any one time in a day, there should be sufficient competent persons to meet the market demand. Moreover, there will be a grace period of six months before the Regulation comes into effect to allow sufficient time for persons meeting the registration requirement to be registered as a competent person under the Regulation. Members generally consider the situation acceptable.

It is stipulated in the Bill that a contravention of the provisions under the Regulation constitutes an offence, which may entail a maximum penalty of \$200,000 and 12 months' imprisonment. As presented by the Administration, the proposed penalties are consistent with those set down in the Gas Safety Ordinance (Cap. 51) and the Gas Safety (Gas Supply) Regulation for similar offences. Members hold different views on the penalty provisions. Some members think that the penalty of imprisonment is excessive, given the view that unlike gas pipes, electricity cables might have curved after being laid underground, causing difficulties in finding out the exact depth of a cable beneath ground level. However, the Administration's data show that over the years from 1994 to 1998, there were more cases of personal injuries and fatalities associated with damage to electricity lines than those with damage to gas pipes. Moreover, the maximum penalty is the upper limit of a set of different levels of penalties which the court might not apply fully.

About the respective legal liabilities of a contractor and a competent person in a case of damage to an underground electricity cable in which the contractor is the employer of the competent person, members are given to understand that if the contractor has taken all reasonable steps and reasonable measures as stipulated in the Code of Practice, including employing a competent person to ascertain the alignment and depth of the underground electricity cable, it will be a defence to the charge for damaging the underground cable under the Regulation. As regards the legal liability of the competent person, if the damage to the underground electricity cable was caused by the default of the competent person in ascertaining the alignment and depth of the cable, disciplinary action will be taken against the competent person under the Regulation.

Members note that the detailed requirements designed to ensure that works activities carried out in the vicinity of electricity supply lines do not prejudice safety or the continuity of electricity supply are set out in the Regulation. In view of the substantial details in the Regulation and some members' serious concern about the severity of the penalty provisions, the Bills Committee considers it important for the Legislative Council to have ample time to scrutinize the Regulation when the subsidiary legislation is tabled in the Council. At the Bills Committee's request, the Administration undertakes to move a Committee stage amendment to provide that the Regulation will be subject to "positive vetting" by the Legislative Council.

The Administration has also accepted the suggestions of the Bills Committee concerning the drafting of the Bill. They include reviewing the definitions of "electricity line" and "electric line" in the Ordinance and all the relevant subsidiary legislation, choosing anew and re-drafting the definition of "electric line" for the sake of clarity, and amending the definition of "electricity supply line" so that it will cover all parts that are required to be protected under the Bill, meaning an electric line, or any cable used in conjunction with such a line for the purpose of transmitting control signals, which is owned by an electricity company.

As a conclusion, the Bills Committee supports the Bill and the Committee stage amendment proposed by the Administration, despite members' divided views on the penalty provisions in the Bill.

Madam President, the above is the report I present on behalf of the Bills Committee.

Madam President, I would like to speak in another capacity now. Other than as the Chairman of the Bills Committee, I would also like to speak on the Bill as the representative of the Democratic Party.

Dr the Honourable Raymond HO's amendment, which proposes to delete the maximum penalty of 12 months' imprisonment, has aroused most controversy. The Democratic Party has studied and discussed this controversial penalty carefully. The Administration has presented many data which show that every year quite a number of casualties, among ordinary people and workers, and great inconveniences such as power failures are caused by damage to underground electricity cables as a result of excavation works. Hence we believe that protection procedures must be set down for these works. The Administration and the industry have scrutinized the Code of Practice. Throughout the course of determining the Code of Practice, the Administration has also conducted full discussions with the industry. I think that if the industry complies with the Code of Practice, has fully participated in the formulation of the Code and follows all required procedures in the employment of competent persons, and the competent persons can acquire the necessary skills fairly easily, all the requirements of the defence provisions are already satisfied. Therefore,

I do not think that it should arouse too much concern or worries. The Democratic Party does not support the amendment proposed by Dr Raymond HO.

I so submit.

**MR AMBROSE LAU** (in Cantonese): Madam President, the Electricity (Amendment) Bill 1999 causes much concern among Members of this Council mainly because the penalty provisions proposed by the Government are very heavy. They are worried that there might be an overkill that would cause people who damage the electricity lines out of inadvertence or inaccurate information supplied to them to be treated unfairly. The Hong Kong Progressive Alliance (HKPA) understands this worry. As it is a criminal offence to damage electricity cables, and given the serious nature of such offences, no overkill should be allowed.

Damages to electricity lines may have serious consequences to public safety, commercial operations and the daily lives of the people. The proposed penalties should be a sufficient deterrent. The HKPA believes Members will have ample opportunity and sufficient time to scrutinize again the contents and rationale of the relevant regulations since the Government is willing to table the Electricity Supply Lines (Protection) Regulation before this Council for "positive vetting". Members will then be able to ensure there will be no overkill with the relevant penalties. Moreover, the penalties are just maximum ones. In passing judgments, the court will still need to consider all factors before meting out the penalties.

The Government also promises that where a contractor has done its best to put in place precautionary measures, including employing competent persons to carry out the prescribed procedures in compliance with the relevant Code of Practice, the contractor will be protected by the defence provisions. Of course, in drafting the relevant Code, the Government must take into consideration and give due respect as far as possible to the opinions of the people in the trade. Only when the relevant Code is reasonable and practicable can the trade help to effectively reduce electrical accidents and interruptions to the supply of electricity, to protect the safety of the public.

The HKPA also hopes the Government can take this opportunity to advise the electricity companies to supply the latest and most complete and accurate information to contractors as far as possible on the alignment of electricity supply lines to help contractors avoid accidents.

Madam President, I so submit.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, on behalf of the Democratic Alliance for the Betterment of Hong Kong, I rise to speak in support of the Government's amendment. Indeed, the principal purpose of the Bill is to protect construction site workers at work. Another purpose is to prevent accidents such as interruptions to the supply of electricity due to negligence. The amendment proposed by Dr Raymond HO will help achieve one of the purposes of the Bill, that is, to act as a deterrent to ensure that contractors or workers will take ample precautionary measures to reasonably avoid accidents in carrying out such works.

In fact, in the period from 1994 to 1998, such works led to over 3 000 accidents, causing four deaths and scores of injuries. If we do not lay down more severe penalties to prevent accidents from happening, we will have a problem when victims claim compensation. Indeed, we do understand the worries of the trade represented by Dr HO. But we also want the trade to understand that they can easily meet the requirements of the amendment so long as contractors take reasonable measures and employ competent persons to carry out certain work. Thus they will meet the requirements of the defence provisions.

I do hope the trade can act in compliance with the Code of Practice to avoid accidents in their works in future after the passing of the amendment. Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, I believe most Members will agree that the enormity of the economic loss resulting from power failures is beyond our imagination. Further still, in an accident involving electricity or the supply of it, the inconvenience caused to the public is equally unimaginable. Hence, I agree that the Government should amend the



Ordinance to protect electricity supply lines by requiring contractors to take reasonable measures to ascertain the existence and alignment of electricity supply lines before carrying out works in the vicinity of such lines. But the problem remains that the Government is suggesting adopting penalty provisions similar to those contained in the Gas Safety (Amendment) Bill 1995 to achieve a deterrent effect. That is to say, in addition to a fine, a term of imprisonment not exceeding 12 months may also be imposed. I am very much against the imprisonment part of the proposed penalty provisions.

Since meetings of the Bills Committee were convened, I have been receiving representations from the construction industry, expressing the industry's opposition to and concern about this part of the Bill. I think the Honourable Ronald ARCULLI's position is the same, albeit he is not present today. Of the groups that have submitted their comments, the Hong Kong Construction Association Limited has recently sent a letter again to Honourable colleagues. If any Members in this Chamber have not seen the letter before, I can lend them my copy. In the letter, the Association has described its strong reasons for objection. As a representative of the Engineering Functional Constituency, I feel obliged to explain to colleagues the problem with the Bill.

According to the Government, a contractor should employ a competent person to locate the underground electricity cables as required and follow the procedures set out in the Code of Practice to obtain relevant plans from the power company concerned showing the locations of any underground electric cables in the vicinity of the work site. The competent person could then use a cable locator to locate accurately the position of any underground electric cables in the vicinity of the site. The Government also claims that the cable locator is not difficult to use. Employees of a contractor should be able to use it after attending a two-day training course. But the fact is another story.

If locating underground electricity cables is something like the Government claims, everything would be simple when procedures are strictly followed and mistakes are unlikely. But that is not the case. Quite contrary to what the Government says, location maps are not always correct to 100%. In the past, I have seen and worked on hundreds of such plans. Unlike gas pipes, underground electricity cables are far greater in number and might have drooped or curved after being laid underground. As such, it may be difficult to find out the exact depth of a cable underground. Moreover, after being laid, other

electricity cables or pipes may be laid in their vicinity. In the laying process the first batch of cables may be displaced. Such changes may not be promptly shown on the location plans. And not every company may receive further plans promptly to record the changes when they take place or when notification of the changes is received. Furthermore, along the roads, miles and miles of cables may have been laid, and so it is not possible to trace accurately the depth of every inch of the cables concerned. For this reason, mistakes may still be made despite the use of cable locators. The Government's assertion that cable locators are highly accurate is not true after all.

In fact, making laws to threaten contractors with imprisonment will not be helpful to the protection of public safety in any way. Why? This is because contractors may easily get someone else to sign the papers and take up responsibility for the relevant works concerned. The person signing the papers may not necessarily be the one supervising the works. Other people in the same company may be the real supervisors of the works. Therefore, I think increasing the fines is good enough to achieve an enhanced deterrent effect, just like the case with the Gas Safety Ordinance. Increasing fines may achieve a far greater deterrent effect.

So, we must be very careful in dealing with the legal liabilities of contractors and competent persons. If damages should be done to underground cables, it would naturally be reasonable to hold the relevant contractors and competent persons responsible. In this connection, however, I think only fines rather than imprisonment should be imposed as penalties. If people are imprisoned every time an incident arises, no one will be willing to act as contractors any more.

I do not mean to start a debate here but in the past few years several events have taken place in Hong Kong that caught the attention of the world. Among them, some were due to negligence on the part of the Government or that of some other people concerned. Should we hold all senior officials or even administrative heads such as Mrs CHAN or Mr TUNG responsible and ask them to resign? By the same token, I do not think it is reasonable to impose imprisonment on contractors.

If unfortunately this part of the amendment is passed, the effects will be far-reaching. Penalties for damages made to cables should not be the same as those for damages made to gas pipes, since the technicalities involved in dealing with each type of damages and the actual situations are totally different. I trust that the only representative in this Chamber for contractors, the Honourable HO Sai-chu (he is apparently not in his seat either), will agree with what I said. Hence, I hope my perspicacious colleagues would lend their support to my amendment. I so submit. Thank you, Madam President.

**MR JAMES TIEN** (in Cantonese): Madam President, just now Dr Raymond HO has referred to Mr Ronald ARCULLI and Mr HO Sai-chu repeatedly. Nevertheless, even if he had not mentioned any of the Honourable Members affiliated to the Liberal Party, I would rise to speak on behalf of our party anyway.

Madam President, Mr ARCULLI was a member of the Bills Committee on the Electricity (Amendment) Bill 1999. Regrettably he is not in Hong Kong. He did not excuse himself on purpose to avoid giving support to Dr HO. Since he is a representative of the construction industry, he has applied to the Liberal Party for exemption. Regarding the letter from the construction industry to which Dr HO referred, I have it on my desk. It was sent to us on 2 November (which was yesterday). The industry said it supported the amendment in general but had reservations about the imprisonment penalty, and for this reason it hoped Members could give some consideration to the issue.

However, our view has been that comparing the phrases "to take reasonable measures" (or "以採取合理措施" in Chinese) in the Bill and "to take all reasonable steps" (or "以採取所有合理步驟" in Chinese) in other ordinances, the later should be considered more stringent. After conducting discussions with the trade, we have come to the view that so long as contractors have taken "reasonable measures", they would not be held responsible when taken to court to defend themselves. Actually, the present provisions used to regulate the trade are not as stringent as those in other ordinances, bearing in mind that contractors are required "to take all reasonable steps" under those ordinances. In our opinion, so far as contractors have discharged their responsibilities, taken care of the safety of workers and managed to strike a balance between the safety of workers and the so-called employers' obligations, they would be deemed as

having "taken reasonable measures" as required. Hence, they would not be faced with any imprisonment penalty at all.

Therefore, Madam President, the Liberal Party supports the original motion of the Government and opposes Dr HO's amendment.

**MR ERIC LI** (in Cantonese): Madam President, I rise to speak in support of Dr Raymond HO's amendment.

I think it is extremely rare if not unprecedented by law to prosecute someone with no criminal intent. Some colleagues may have detected some regulatory inadequacies within the trade and hence some room for improvement. And I entirely agree with the spirit of the law. I also find it acceptable to increase penalty to personal financial liability for the contractor concerned in addition to fines, or even revoking his licence or disqualifying him from acting as a director. But I find the penalty incommensurate with the responsibility required to be shouldered by the person involved, if that person who has no criminal intent at all were to be imprisoned for an act done not by him but by his subordinate or his staff.

I have listened carefully to Honourable colleagues' comments. Some of those colleagues who supported the imprisonment penalty also agreed that damages to electricity cables might be caused by a series of accidents. If a person is imprisoned for an accident, we can say it is not a fair treatment at all. Of course, by accident we mean something that happens without wilful intent to break the law. Similar accidents are abound all over the world and often lead to serious consequences. We know serious casualties occur when planes crash. Will directors of the relevant airlines be imprisoned? When several hundred people died in a train collision in Britain, should the director of the company for train service be imprisoned? Just now, the Honourable MA Fung-kwok asked me whether a director or a film-maker should be imprisoned if someone gets hurt inadvertently in an explosion while shooting a scene in a film. Therefore we cannot treat company personnel in charge as if they were criminals just because there are serious consequences. Once such a precedent is set, I am very much worried that it would be extended to other trades in which there is an element of danger. That is to say other people in other trades will also be penalized by the same measures. If the Legislative Council passes the law and sets a precedent,

that situation will certainly arise in future. This Council must draw a line so that no precedent is set because of this Bill.

Many colleagues said it was easy to follow the Code of Practice. But have we scrutinized it? We said we would subject the Code to "positive vetting", but have we seen it and discussed it? If we have not, would we be underestimating the difficulties in complying with the Code or its shortcomings? As a long-time professional, I can tell everyone that usually codes of practice cover a wide area. To find out whether a contractor has been observing the Codes, one will need to have extensive professional knowledge about the trade. There are also grey areas requiring professional judgment. If professional judgment has it that the codes are easy to comply with and one will not be prosecuted if one follows them, then it follows that we would be better off doing away with the Bill. If it is said one will not be prosecuted by complying with just some parts of the codes, then what do we need the Bill for? What deterrent effect does the Bill have? Is it projecting a self-contradictory image?

In fact, I think to force the companies to bear criminal liabilities appears to be tantamount to encouraging them to appoint others to be directors or to fill posts that should be filled by professionals or by people from the engineering sector. The proprietors of the companies will surely find ways to dodge criminal liabilities. So, at the end of the day, those who are charged with the serious offences and ultimately prosecuted may probably be some scapegoats.

Thank you, Madam President.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, first, let me thank the Chairman of the Bills Committee on the Electricity (Amendment) Bill 1999, the Honourable Fred LI, for thoroughly studying this Bill and the proposed Electricity Supply Lines (Protection) Regulation. I also thank Members for supporting this Bill. Members of the Bills Committee also made many useful suggestions. I will move several amendments at the Committee stage later in response to their suggestions. As Dr Raymond HO has put forward his arguments for his amendment to be moved later on, I would like to respond immediately to the views expressed by Members just now. In my view, the only controversial point is the one put forward by Dr Raymond HO earlier.

First, I would like to thank Members of the various political parties for supporting the Government's stand. Since I have just heard the Honourable Eric LI's speech, I would like to respond to it right away. Mr LI seems to be suggesting that a person will only be liable if he commits an offence with intent, but he will not be liable if he has done so as a result of serious omission or out of disregard for human life. I find this very strange. If someone causes injury or death because of serious omission and failure to discharge his duty, should he not be held accountable? Is a fine of \$200,000 enough? With regard to the Code of Practice mentioned by Mr LI, I want to tell him that the industry and I have spent a year working out the Code. We are of the view that this Code is practicable and I believe we have spared no effort in this respect.

Just now, I listened to the arguments and views advanced by Members very carefully. I would like to point out that the purpose of this Bill is to provide for measures designed to ensure that activities performed in the vicinity of electricity supply lines owned by electricity suppliers will not cause accidents. Since these are electrical accidents, they might cause a fire or explosion and lead to casualties and interruption to the supply of electricity. Let me tell Members that such incidents occur frequently. During the five years between 1994 and 1998, there were 700 such incidents on average annually. Among these incidents which involved damage to electricity supply lines caused by a third person, there were injuries in 84 cases and four deaths. They also resulted in over 1 800 cases of interruption to electricity supply. In view of the seriousness of the situation, I am sure Members will understand that there is a need to legislate to reduce as far as possible the number of incidents caused by damage to electricity supply lines, as well as specifying a sufficient penalty for the relevant offence in order to achieve a deterrent effect. Thus, according to the Regulation made under the Electricity (Amendment) Bill 1999, activities performed in the vicinity of electricity supply lines must be performed in such a way as to minimize the risk of electrical accidents or interruption to the supply of electricity. The maximum penalty under the relevant Regulation is a fine not exceeding \$200,000 or a term of imprisonment not exceeding 12 months, or both fine and imprisonment. Some of those liable to prosecution consider the penalty of imprisonment to be too heavy. However, in the overall interest of the public, we find it necessary to retain the imprisonment provision.

The Gas Safety (Gas Supply) Regulations passed in the Legislative Council three years ago provide for a similar penalty for similar offences involving works carried out in the vicinity of gas pipes. Since the penalty came into effect, the number of incidents has drastically dropped almost by half. I hope Members will understand that the potential risk of damage to electricity supply lines is no less than that of the damage to gas pipes. On the contrary, from the statistics of past incidents, we can see that the number of casualties and the inconvenience caused to the public by the damage to electricity supply lines are much greater than that caused by the damage to gas pipes.

There are some views that because electricity supply lines are more likely to deviate from their original position than gas pipes, contractors are more liable to damaging electricity supply lines inadvertently. Thus, the two cases cannot be compared. I have consulted experts and the Director of Electrical and Mechanical Services. In their view, the competent persons employed by contractors should be able to ascertain the electricity supply lines which have deviated from their original position. Thus, it should not be a problem at all. The legislation only requires the persons concerned to take reasonable measures and steps. If, having met the requirement of the law, they cause damage to electricity supply lines due to reasons that cannot be foreseen reasonably, this could certainly be used as a defence. As the Honourable Ambrose LAU said just now, we certainly do not want to "overkill". We just hope that the persons concerned will take all reasonable measures to fulfil their obligation. In fact, we have made clear defence provisions in the proposed Electricity Supply Lines (Protection) Regulation in respect of the relevant offence, having regard to the reasonable interest of the contractors. After a year of consultation and discussion with the trade, we have also drawn up a Code of Practice setting out all the reasonable steps and measures that a contractor should take.

The proposed Regulation also clearly states that it shall be a defence to a charge to show that the contractors have fulfilled their responsibility by complying with the provisions of the Code of Practice. Actually, we have studied the relevant proposals carefully to see if the imprisonment clauses could be deleted and what the arguments are. We have also considered replacing imprisonment with a heavier fine. However, this would seriously affect our work in safeguarding a safe and secure electricity supply. Thus, we cannot but conclude that the proposed fine and imprisonment term as the maximum penalty have sufficient deterrent effect, as well as allowing the Court to deal with cases

flexibly. I am sure the Court will decide on the final penalty after considering all the relevant factors and circumstances.

Madam President, we have tried our best to respond to the trade's demand for proper safeguard reasonably. We have also provided appropriate defence provisions in the legislation. In drawing up the code of practice, the Government has consulted the trade adequately. In future, we will continue to communicate with the trade. At the request of the Bills Committee of this Council, we will move an amendment to subject the Electricity Supply Lines (Protection) Regulation to "positive vetting" by this Council. I am sure that Members who are worried about this Regulation will have sufficient time to deliberate on the Regulation in depth, to ensure that it is reasonable and practicable before it is passed. I believe this is absolutely reasonable. I must reiterate that we have no wish to "overkill". This arrangement will give Members the opportunity to study the Regulation again in detail. If Members find that the Bill could be improved so as to better meet the trade's demand without undermining its deterrent effect, I am sure we can examine it in detail when we deliberate on the Regulation.

I thank Members again for their support. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Electricity (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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



**CLERK** (in Cantonese): Electricity (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ELECTRICITY (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Electricity (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clause 1.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 3.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move the amendments to clause 2(b) and clause 3(b), as set out in the paper circularized to Members.

Actually, the amendment to clause 2(b) is consequent upon the amendment proposed to clause 3(b), and the objective of the two proposed amendments is to render the definition of "electricity line" and that of "electricity supply line" more specific. In addition to defining the meaning of the term "electricity line" currently used in the subsidiary legislation made under the Electricity Ordinance, the amendment proposed to clause 3(b) also seeks to amend the proposed definition of the term "electricity supply line". The amended definition, refers to an "electricity supply line" as an electric line, or any cable used in conjunction with such a line for the purpose of transmitting control signals which is owned by an electricity supplier.

*Proposed amendments*

**Clause 2 (see Annex V)**

**Clause 3 (see Annex V)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Economic Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 3 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 4.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move the amendments to clauses 4(a) and 4(c), as set out in the paper circularized to Members.

The purpose of amending clause 4(a) is to avoid laying down any absolute criteria for activities performed in the vicinity of electricity supply lines. Upon passage of the amendment, activities performed in the vicinity of electricity supply lines should be performed in a manner that "minimizes causing an electrical accident or interruption to the supply of electricity", rather than be performed "without risk of electrical accident or interruption to the supply of electricity".

As regards the amendment to clause 4(c), it seeks to ensure that regulations enacted to protect electricity supply lines shall be subject to the approval of the Legislative Council by way of positive vetting.

*Proposed amendment*

**Clause 4 (see Annex V)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Economic Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**DR RAYMOND HO** (in Cantonese): Madam Chairman, I move clause 4(c) be further amended as set out in the paper circularized to Members.

*Proposed amendment*

**Clause 4 (see Annex V)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Economic Services, do you wish to speak?

(The Secretary for Economic Services indicated he did not wish to speak)

**CHAIRMAN** (in Cantonese) : Dr Raymond HO, do you wish to reply?

**DR RAYMOND HO** (in Cantonese): Madam Chairman, the construction industry, in fact, belongs to the functional constituency that Mr Ronald ARCULLI represents. In the course of scrutinizing the Bill by the Bills Committee, a total of five members, including Mr Ronald ARCULLI and myself, took the same position and opposed the penalty provision under which the person who submitted the plans or the employer of the contractor is liable to imprisonment. At that time, Mr Ronald ARCULLI was also strongly opposed to the view that the concerns of contractors can be removed by the provision on taking "all reasonable steps". It is because when a case is presented in the Court, no one can tell what the ruling will be. In fact, I think this is an unfair provision which will give rise to questions of principle, as pointed out by Mr Eric LI. Besides, other trades or industries will also be affected as a result of the general application of the same principle by the Government, and this provision will have a bearing on a wide range of areas. As I am a member of the Bills Committee, I proposed this amendment to the Bill. I am aware that the industry has very strong views on this provision. They have talked to me on many occasions and expressed their views to the Bills Committee. Earlier on, they also submitted a written submission. The Bills Committee has spent more than six months on scrutinizing the Bill. This Amendment Bill was originally thought to be very simple, but it turned out that such a long period of time was required for its scrutiny. This evidently shows that a great deal of controversy is involved in it.

As I said just now, the employers will be affected under such unreasonable penalty provision in the Bill. In fact, they have no objection to increasing the fine from the present \$200,000 to \$500,000 or even \$1 million. They will agree to an increase in the fine. But if they could be imprisoned any time for unjustifiable reasons, it would arouse anxieties among them. In my earlier speech I already pointed out that no one would be willing to become the boss under the circumstances. I hope the Liberal Party, which claims to be representing employers in the industrial and commercial sector, will consider if this is really a matter of principle? I hold the Democratic Party in high esteem for they unreservedly oppose any government policy or proposal which is unreasonable or unfair to a particular sector in the community. The Democratic Alliance for the Betterment of Hong Kong and the Hong Kong Progressive Alliance have always considered government proposals very carefully before throwing weight behind the Government. The independents are fair and impartial in that they do not necessarily yield to the lobbying of the Government. I know that the Government's team of lobbyists headed by Mr Stephen IP is renowned for its efficiency and accomplishment. I hope Members will not be mellowed by the forceful lobbying endeavours of the Government to the detriment of the principle. While the Government said that the provisions of the regulations will be finalized only at a later stage and that there will be a chance for improvement by then, will the provision on imprisonment possibly disappear in the regulations when such a provision is already contained in the Bill? This is a point that I resent most. Therefore, I urge Members to reconsider the propriety of this provision before they push the button to vote. Thank you, Madam Chairman.

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

**MR CHAN KAM-LAM** (in Cantonese): Madam Chairman, I am grateful to Dr Raymond HO for speaking highly of our cautious attitude in scrutinizing legislation and going about things. Yet, I think we do not have to consider the matter any further when we vote later on. We will support the original amendment of the Government and oppose the amendment moved by Dr Raymond HO.

The reason is very simple. A responsible contractor will not bear criminal liabilities as long as he acts in compliance with the statutory requirements and simply carries out the works in accordance with the procedures as stipulated. I believe that they will fear naught provided that they are responsible contractors.

Mr Ronald ARCULLI and Dr Raymond HO have spared no effort to safeguard the interest of their constituents. I believe that they will continue to secure the support of their constituents. However, I hope they can strike a balance. It is also my hope that their constituents can take account of the safety of the public in their future works projects so that members of the public will not suffer losses as a result of accidents. Thank you, Madam Chairman.

**MRS SOPHIE LEUNG** (in Cantonese): Madam Chairman, I believe that the Chairman of our Party has stated very clearly the position of the Liberal Party earlier on. We have also given a detailed account of our stance in the Bills Committee. Certainly, we have considered the various aspects involved. Just now Dr Raymond HO said that we represent the industrial and commercial sector. Aside from representing the industrial and commercial sector from time to time, we, the Liberal Party, also take into careful consideration the interest of the community as a whole. We have considered each and every issue from this angle to get an all-round view of the situation. It is, therefore, impossible to simply adopt a broad-brush approach to interpret all issues. I believe that we have made our position clear. Let us not dwell on this point any more because time is very, very valuable in this Chamber. Thank you, Madam Chairman.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I only wish to respond to the speech made by Dr Raymond HO just now. I do not think there is any need for me to seek to lobby Honourable Members, for I believe they are all very perspicacious. I can see no point in lobbying them. Moreover, since we have been engrossed in the Disney negotiations, I do not think we could find any time for lobbying either.

I must say that I am glad to see Members affiliated to the Democratic Party prove to us that they are not opposed to every proposal put forward by the Government, and that they also listen to reason. Furthermore, as I understand it, both Dr Raymond HO and Mr Eric LI are reasonable and fair-minded persons; and I believe they really do not have to worry. As far as regulations are concerned, I will be glad to sit down and discuss in detail with Members how the relevant regulations could be enforced in a practical and reasonable manner, and at the same time avoid an "overkill".

**CHAIRMAN** (in Cantonese): Dr Raymond HO, do you wish to reply?

(Dr Raymond HO indicated that he did not wish to reply)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Dr Raymond HO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr Raymond HO rose to claim a division.

**CHAIRMAN** (in Cantonese): Dr Raymond HO has claimed a division. The division bell will ring for three minutes.

**CHAIRMAN** (in Cantonese): Will Members please proceed to vote.



**CHAIRMAN** (in Cantonese): Will Members please check their votes. Mr SZETO Wah, do you have any queries? (*Mr SZETO Wah shook his head*) If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mr Eric LI, Dr LEONG Che-hung and Dr Philip WONG voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Michael HO, Mr LEE Kai-ming, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK and Mr LAW Chi-kwong voted against the motion.

Dr TANG Siu-tong abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss Christine LOH, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Prof NG Ching-fai and Mr CHAN Kam-lam voted against the motion.

Mr David CHU, Mr NG Leung-sing, Mr Ambrose LAU and Miss CHOY So-yuk abstained.

THE CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, four were in favour of the motion, 19 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, 18 were against the motion and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**CLERK** (in Cantonese): Clause 4 as amended.

**CHAIRMAN** (in Cantonese): Since the Committee has earlier on passed the amendments to clause 4 moved by the Secretary for Economic Services, the question put now is: That clause 4 as amended by the Secretary for Economic Services stand part of the Bill.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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

<b>CLERK</b> (in Cantonese):	Heading before new clause 5	Consequential Amendments Electricity Supply Regulations
	New clause 5	Interpretation

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Heading before new clause 6	Electricity Supply (Special Regulations
New clause 6	Interpretation.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move that headings before new clauses 5 and 6 and new clauses 5 and 6, as set out in the paper circularized to Members, be read the Second time. The proposed new clauses, made consequent upon the amendments made to clause 3(b), seeks to repeal the definitions of "electric line" in the Electricity Supply Regulations and the Electricity Supply (Special Areas) Regulation.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That headings before new clauses 5 and 6 and new clauses 5 and 6 be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Headings before new clauses 5 and 6 and new clauses 5 and 6.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move that the headings before new clauses 5 and 6 and new clauses 5 and 6 be added to the Bill.

*Proposed additions*

**Heading before new clause 5 (see Annex V)**

**New clause 5 (see Annex V)**

**Heading before new clause 6 (see Annex V)**

**New clause 6 (see Annex V)**

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the headings before new clauses 5 and 6 and new clauses 5 and 6 be added to the Bill.

I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bill**

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

### **ELECTRICITY (AMENDMENT) BILL 1999**

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the

Electricity (Amendment) Bill 1999

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Electricity (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Electricity (Amendment) Bill 1999.

### **Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Shipping and Port Control (Amendment) Bill 1999.

### **SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 31 March 1999**

**PRESIDENT** (in Cantonese): In accordance with the Rules of Procedure, I have permitted Mr HUI Cheung-ching, Chairman of the Bills Committee on Shipping and Port Control (Amendment) Bill 1999, to address the Council on the Committee's Report.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam President, I table the Report in my capacity as the Chairman of the Bills Committee on Shipping and Port Control (Amendment) Bill 1999. As the Report has given a detailed account of the deliberations of the Bills Committee, I wish to speak on the main deliberations of the Bills Committee.

The Bills Committee welcomes the introduction of the Bill which aims at strengthening the existing legislation to further protect the safety of workers engaged in marine work activities. The provision to empower the Director of Marine to issue codes of practice and that on the increase in penalty charges are two of the major provisions contained in the Bill.

The Bills Committee notes that the industry supports the issue of codes of practice by the Director of Marine for the purpose of providing practical guidance in respect of the provisions in the Shipping and Port Control Ordinance. In response to the Bills Committee's request that the industry be fully consulted before finalizing the codes, the Administration advises that a steering group comprising representatives from the Administration, Occupational Safety and Health Council and the relevant trades has been set up to work on the code of practice. It is expected that the steering group, with the assistance of professional consultants, will draw up a code which is acceptable to all parties concerned.

Some of the industry organizations do not support the Government's proposal to increase the penalty charges for breach of the requirements of Part V of the Shipping and Port Control Ordinance by 100% to 150%. However, the Bills Committee notes with concern that there were over 500 casualty and fatality cases on average in each of the past three years and reckons there is a need to improve the situation. In fact, the proposed increase is part of the whole package of legislative amendments proposed by the Administration for improving the situation, and the existing penalty charges were set in 1978. For these reasons, a majority of members of the Bills Committee support the Administration's proposal to increase the penalty charges for deterrent effect, thereby deterring employers as well as persons in charge of works from not complying with the statutory requirements and accordingly, reduce the accident figures. The Bills Committee is of the view that the proposed increase in penalty charges will only affect those non-compliant employers and persons in charge of works.

While the Bills Committee supports the proposed increase in penalty charges, members are concerned about the unfairness to the industry if penalty charges are increased before the implementation of the codes of practice. To address members' concern, the Administration has proposed to introduce a Committee stage amendment to clause 1 of the Bill to the effect that the Bill, if passed by the Council, will come into operation on a day to be appointed by the Secretary for Economic Services by notice in the Gazette. The Administration's plan is to issue the codes of practice six months after the enactment of the Bill and at the same time, put into effect the revised penalty charges. Other provisions of the Bill will come into effect as soon as possible after the enactment of the Bill. Members consider this arrangement acceptable.

The Bills Committee supports the Administration's proposal to add new clauses 17 to 27 to the Bill so that consequential amendments will be made to the Merchant Shipping (Local Vessels) Ordinance which was passed on 7 July 1999. The Administration will move Committee stage amendments to this effect.

Lastly, the Bills Committee supports the Second Reading of the Bill and also the Committee stage amendments to be moved by the Administration.

Madam President, I so submit.

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

**MRS MIRIAM LAU** (in Cantonese): Madam President, the Shipping and Port Control (Amendment) Bill 1999 seeks to, *inter alia*, improve the safety of workers engaged in marine work activities. In this connection, the Bill empowers the Director of Marine to issue codes of practice.

Both the employers and workers have a role to play in maintaining a safe working environment and reducing the accident figures. It is impossible to improve occupational safety if workers are reluctant to use safety equipment provided by employers, or employers turned a deaf ear to workers' complaint of occupational hazards. Therefore, the Bills Committee requested the Administration to fully and widely consult the relevant trades before finalizing the codes of practice. I must point out in particular that employers and workers should be included as the targets of the consultation exercise. It is because employers and workers are willing to comply with codes of practice only if they are worked out by the concerted effort of both parties and regarded by both parties as acceptable.

The Bill also proposed to substantially increase the penalty charges. The Government stressed that this would only affect those employers who do not comply with the legislative requirements and that the proposed codes of practice will facilitate compliance by employers. However, it takes time for these codes to be drawn up. Under the original proposal of the Government, the increased penalty charges will become effective immediately after the enactment of the Bill. That is to say, they will be effective before the codes of practice are put into



effect, in which case employers could be subject to severe punishment in the absence of guidance from any code of practice. This, I think, is unfair to employers.

The Administration noted my concern and proposed to introduce a Committee stage amendment to the effect that the Bill, if passed by this Council, will come into operation only on a day to be appointed by the Secretary for Economic Services by notice in the Gazette. The Government's plan is to issue the codes of practice six months after the enactment of the Bill and give effect to the new penalty charges then. I hope Members will support this amendment.

Madam President, heavier penalty can, in principle, achieve the deterrent effect but I must point out that in recent years, the casualty and fatality figure has been actually on the decrease, from 693 in 1996 to 541 in 1998. This can possibly be attributed to employers and workers increasingly giving weight to industrial safety in recent years. Under the circumstances, it is best to make use of the codes of practice to further assist employers and workers in preventing accidents. Given that the existing penalty charges were set 21 years ago, the Government's proposal to increase penalty charges will very likely be supported by Members today. However, I wish to point out that in order to really improve occupational safety, the Administration must, in addition to introducing heavier penalty charges, step up publicity to promote the awareness of safety in marine work activities. I think it is more effective to put across the message gradually than putting in place severe penalties and draconian laws.

Madam President, I so submit.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, I would like to thank the Chairman of the Bills Committee on Shipping and Port Control (Amendment) Bill 1999, the Honourable HUI Cheung-ching, the Honourable Mrs Miriam LAU, and other members of the Bills Committee.

Mr HUI and other Members held detailed discussions about the Bill in the course of their scrutiny and made a lot of valuable suggestions. The Bills Committee was particularly concerned about proposals in Part V of the principal legislation regarding increases in penalty charges. The increases are meant to deter law breakers so as to reduce the number of marine work accidents. In

setting the level of increase, reference was made to laws on industrial safety on land, including the Factories and Industrial Undertakings Ordinance and Occupational Safety and Health Ordinance.

As Mr HUI pointed out, the increased penalties are just part of the whole package of proposals in the Bill to improve marine work activities. I have other proposals for that purpose: that the Director of Marine be empowered to issue codes of practice and practical guidelines to enhance safety, to approve qualified persons to provide safety training courses, and to make regulations to protect the safety of persons engaged.

As regards the effective date of the new penalties, we have accepted the suggestions from the industry as related by Members just now. The amended penalties will come into effect only after the Marine Department has formulated the relevant codes of practice for the trade to have reasonable standards to follow. In preparing the codes, the Government will conduct sufficient consultation with the industry. The Committee stage amendments are mainly technical ones, and they have been discussed and endorsed by the Bills Committee.

Madam President, I hope Members will support the Shipping and Port Control (Amendment) Bill 1999.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Shipping and Port Control (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Shipping and Port Control (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Shipping and Port Control (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 5, 6, 8 to 14 and 16.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 1 to 4, 7 and 15.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move the amendments to clauses 1 to 4, 7 and 15, as set out in the paper circularized to Members. The amendments are all technical in nature and supported and endorsed by the Bills Committee.

*Proposed amendments*

**Clause 1 (see Annex VI)**

**Clause 2 (see Annex VI)**

**Clause 3 (see Annex VI)**

**Clause 4 (see Annex VI)**

**Clause 7 (see Annex VI)**

**Clause 15 (see Annex VI)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Economic Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 1 to 4, 7 and 15 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

<b>CLERK</b> (in Cantonese):	Heading before new clause 17	Consequential Amendments Merchant Shipping (Local Vessels) Ordinance
	New clause 17	Interpretation
	New clause 18	Part heading substituted
	New clause 19	Interpretation
	New clause 20	Powers of Director and Inspectors
	New clause 21	Restriction on carrying out repairs or breaking up of local vessels

New clause 22	Safe atmosphere
New clause 23	Directions regarding repairs or breaking up of local vessels
New clause 24	Prohibition against use of dangerous equipment, etc.
New clause 25	Prohibition against carrying out works in dangerous conditions
New clause 26	Section added
New clause 27	Regulation - general

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move that heading before new clause 17 and new clauses 17 to 27, as set out in the paper circularized to Members, be read the Second time. The amendments aim at amending the relevant provisions of the Merchant Shipping (Local Vessels) Ordinance, and they are supported and endorsed by the Bills Committee.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That heading before new clause 17 and new clauses 17 to 27 be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Heading before new clause 17 and new clauses 17 to 27.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move that heading before new clause 17 and new clauses 17 to 27 be added to the Bill.

*Proposed additions*

**Heading before new clause 17 (see Annex VI)**

**New clause 17 (see Annex VI)**

**New clause 18 (see Annex VI)**

**New clause 19 (see Annex VI)**

**New clause 20 (see Annex VI)**

**New clause 21 (see Annex VI)**

**New clause 22 (see Annex VI)**

**New clause 23 (see Annex VI)**

**New clause 24 (see Annex VI)**

**New clause 25 (see Annex VI)**

**New clause 26 (see Annex VI)**

**New clause 27 (see Annex VI)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That heading before new clause 17 and new clauses 17 to 27 be added to the Bill.

I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.



**Third Reading of Bill**

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

**SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1999**

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the

Shipping and Port Control (Amendment) Bill 1999

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Shipping and Port Control (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Shipping and Port Control (Amendment) Bill 1999.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. The movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments. The mover of an amendment will have up to 10 minutes to speak. Other Members will each have up to seven minutes for their speeches.

First motion: The "user pays" principle.

## **THE "USER PAYS" PRINCIPLE**

**MR JAMES TIEN** (in Cantonese): Madam President, in addition to the annual tax commitment, the industrial and commercial sectors and the public in Hong Kong are required to pay charges to the Government for the use of public services. At present, there are more than 3 800 government fees and charges, all levied in accordance with the "user pays" principle. The Liberal Party does not object to this in principle. However, the Government must exercise strict control on the administrative costs of various services to guard against the unfair and unreasonable situation of "the Government inviting the guests with the public footing the bill".

Last week, the Financial Secretary, Mr Donald TSANG, indicated in public that the Government would consider raising government charges. At a time when our economy has not yet fully recovered and the industrial and commercial sectors and the public are still suffering from adversities, it is indeed inappropriate for the Government to suggest raising charges. On the contrary, the Government should conduct a comprehensive review of the administrative costs of government fees and charges to see if they are maintained at an unnecessarily high level. Moreover, it should take effective measures to reduce recurrent expenditure on various services in order to reduce the burden on the industrial and commercial sectors and the public.

The Liberal Party has actually found that the charges levied by some government and quasi-government organizations at present are not fair and reasonable. As a result, the industrial and commercial sectors and the public are required to pay unnecessary charges. Let me cite a few examples.

First, charges levied by the Estate Agents Authority (EAA). At present, the operating cost of the EAA comes wholly from the estate agent's licence fees. However, when the EAA was first set up, it had underestimated the number of licences and set the licence fees at an exceedingly high level. As a result, it has collected a surplus of more than \$40 million, with the discrepancy reaching 86%. With such an abundant surplus, the EAA has so far been unwilling to accede to the estate agent industry's request of reducing the licence fees by half, failing to rectify a mistake.

The second example is related to the Mandatory Provident Fund Schemes Authority. With an annual expenditure ranging from approximately \$400 million to \$500 million, the Authority levies charges on the retirement fund management industry under the "user pays" principle. However, it is discovered from the open recruitment advertisements placed by the Authority a month or so ago that the monthly salaries offered to its lowest-salary employees, such as drivers and clerks, are invariably more than \$10,000. It is really surprising that the entry salary of a receptionist, who needs to have completed Secondary Seven education and have three years' experience only, is as high as \$17,000, more than two times the monthly salary of a general receptionist working in private organizations. As the Authority has offered such an attractive remuneration, no wonder that a Chief Assistant Secretary serving the Panel on Economic Services in the Legislative Council Secretariat has chosen to work for the Authority.

The third example concerns the trade effluent surcharge (TES). The Government started to collect sewage charges from April 1995 onwards. All establishments connected with public sewage systems are required to pay for the sewage charges. On top of that, 30 industries are required to pay the TES. At the beginning, the Government guaranteed that the surcharge, accounting for only 20% of water charges, would be affordable to the public. However, it was subsequently discovered that the constant rise in the costs for treating sewage had led to serious over-spending, resulting in a heavy burden on the commerce and industry. The TES paid by a number of food premises are as much as over 130% of the water charges paid by them.

The above examples represent only the tip of the iceberg. I believe there are still many examples of the Government squandering at the expense of the industrial and commercial sectors. The Government must radically correct such an extremely irresponsible behaviour.

Madam President, the Liberal Party considers the most radical means to exercise cost control is to endeavour — Madam President, I stress the word "endeavour" — to let private organizations operate and manage public services according to commercial principles with a view to cutting down unnecessary expenditure on bureaucratic administration.

In fact, there were a number of successful examples showing that we could save a lot of resources by contracting out the management of government services to private organizations. Savings in resources will translate into savings in fees chargeable under the "user pays" principle. For example, the Lands Department was previously responsible for the signing of titles deed for Home Ownership Scheme flats and a standardized fee was levied on a cost basis. The fee charged by the Government in the last phase, that is Phase 13A of 1993, was \$2,100. Later, the relevant service was taken up by solicitors' firms appointed by the Housing Authority and then recently through public tender. In the most recent tender exercise, the median successful bidding price was \$888 per transaction while the lowest bidding price was \$500 only. This clearly shows that the cost of conveyancing service in the private market is much lower than the Government's administrative cost.

Other successful out sourcing examples include the one in which a total of \$200 million was saved annually after the two Municipal Councils contracted out some of their street-cleansing services. The Regional Services Department managed to save \$38 million a year after contracting out 60% of its gardening maintenance work. The Government Property Agency saved \$88 million after contracting out most of its building management and security services provided for joint-user office buildings and government quarters. From these, we can see that it is correct and feasible for the Government to contract out its services.

For these reasons, the Liberal Party considers the first and foremost task for the Government is to define its core business which must continue to be run by the Government and contract out the non-core business to private organizations for management. As for services not suitable for contracting out, the Government must improve its monitoring mechanism for cost control to guard against indiscriminate spendings.

Madam President, although the industrial and commercial sectors and the public are in support of the environmental protection policies put forward in the policy address, they are somehow worried that they will be asked to shoulder heavy expenditure on environmental protection. This is because it has been pointed out in the third policy address delivered by the Chief Executive earlier that the recurrent costs for discharging and handling sewage alone are expected to rise to \$3 billion a year in 10 years' time. The Chief Executive has also made it clear that the users and polluters will need to cover the relevant charges fully. The Liberal Party is of the view that the Government should, first of all, shoulder all construction costs for environmental protection projects. Although the Government has promised to do so, we consider there is still a need for the Government to pay part of the recurrent operating expenses. It should not transfer all the operating expenses onto the industrial and commercial sectors and the public. In our opinion, it will help the Government control administrative costs more carefully if it is responsible for covering part of the operating costs. We suggest that the Government should at least take up 30% of the recurrent expenditure on environmental protection. Of course, we will absolutely welcome it if the Government is able to indicate that it has already taken up more than 50% of the recurrent expenditure on environmental protection.

Lastly, Madam President, I wish to respond to the amendment proposed by the Honourable Gary CHENG of the Democratic Alliance for the Betterment of Hong Kong (DAB) to my motion. As I said at the beginning, all of the 3 800-odd government fees and charges are collected from the users in accordance with the "user pays" principle. Therefore, Mr CHENG's amendment has not expanded the scope of the "various fees". As a matter of fact, the "various fees charged by government and quasi-government organizations" referred to in the amendment are almost or even exactly the same as the "fees to be paid under the user-pays principle" as contained in my motion.

Furthermore, my purpose of moving the motion today is to urge the Government to exercise careful control on the administrative costs incurred as a result of the levy of fees by various government or quasi-government organizations, rather than discussing whether the "user pays" principle is desirable. The first sentence of the original motion is only an objective statement. It is indeed not necessary for Mr Gary CHENG to propose this amendment.

Madam President, I cannot see why Members from the DAB need to move this amendment at all. However, as the amendment is basically not different from the original motion, Members from the Liberal Party will support the amendment.

With these remarks, Madam President, I beg to move.

**Mr James TIEN moved the following motion: (Translation)**

"That, to ensure that the fees to be paid by the public and industrial and commercial establishments under the "user pays" principle are reasonable, fair and affordable, this Council urges the Government to adopt effective measures to strengthen cost control in the government and quasi-government organizations concerned so as to cut down unnecessary expenditure on bureaucratic administration."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr James TIEN, as set out on the Agenda, be passed.

Mr Gary CHENG will move an amendment to this motion, as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Gary CHENG to speak and move his amendment.

**MR GARY CHENG** (in Cantonese): Madam President, first of all, I would like to thank Mr James TIEN for saying that he will support our amendment. Let me also clarify that the DAB has moved this amendment because we want to delete wordings like "to be paid under the "user pays" principle" from Mr James TIEN's motion. We seek to do so basically because we do not agree that the "user pays" principle should be used as the basis of determining government fees and charges. We only want to state what principles the Government should apply in determining its fees and charges.

Madam President, the DAB is no advocate of populism, so it will not indiscriminately oppose all government fees and charges. However, we do think that government fees and charges should be reasonable and fair, and the affordability of the public should also be taken into account, especially at a time when the financial circumstances of the public are greatly affected by the current economic conditions. We are afraid that if the proposal in the original motion to determine fees according to the "user pays" principle is passed, a "green light" may be given to "increasing the rate of cost recovery" and "full cost recovery". This is the last thing we wish to see. We hope that a fair and reasonable principle with due regard for the affordability of the public can be applied to determine government fees.

The Administration has always said that there should be "full cost recovery" for its services, or that its fees and charges should be determined according to the "user pays" principle. Of course, the Government also offers subsidies, and some of its fees and charges, such as those for education, medical and health care and social welfare services, are below costs or maintained at their actual value. So, the existing government fees and charges actually reflect different levels of cost recovery. The first category of fees and charges is not welfare-related, and these charges are very close to their respective cost recovery levels, some examples being rentals for community halls, the TES, charges for obtaining information from the Rating and Valuation Department, judiciary fees and so on. The second category of fees and charges is also not welfare related, and those charges are not so close to their respective cost recovery levels. Examples of such fees and charges are the Environmental Protection Department's vehicle emission tests charges, fees for issuing Certificates of Registration and related matters to Owners Corporations, the fees charged by the Agriculture and Fisheries Department for issuing dog licenses and so on. The third category of fees is welfare- or subsidy-related — fees that aim at a lower

expected rate of cost recovery, or a lower rate of recovery on current costs. Examples of such fees are charges for civil servants' holiday bungalows, the Education Department's adult education course fees, school fees of senior secondary school students in government schools, water charges and charges for elderly health centres, student dental health care and Women Health Centres.

However, the principles adopted by the Government in determining its fees are one thing, and the acceptability to the public is really quite another. The principles of "full cost recovery" and "user pays" really put the public in a disadvantaged position. The 3 000-odd items of government services are mostly of a public utility nature, and it is often very difficult for the public to find any substitutes in the market. The public should not be deprived of such services just because they do not have the means. We therefore oppose the Government's move to further raise the fees and charges in the areas of medical care, education, public hygiene and social welfare. Actually, the fact that the Government has already adopted the "user pays" principle in determining fees over the years has exerted a lot of pressure on the public.

In fact, for fees and charges which are not welfare-related, the Administration should first consider the nature of the services concerned, who the users are and the affordability of the public. It should then determine which services should be exempted from the "user pays" principle by lowering their "expected" or "current" cost recovery rates. Let me give some examples here. At present, in the case of charges relating to group renting of community centres, the Judiciary, the issuance of Certificate of Registration to Owners Corporation and so on, the target rate of cost recovery is 100%, and the present cost recovery level is already 80% to 90%. However, if we consider the nature of these services, who their users are, and their social functions, we will come to the conclusion that these are indispensable public services, and the users are really just the average man in the street or non-profit-making organizations which are not so financially well-off. That being the case, we really doubt the wisdom of setting down a 100% cost recovery level for such services under the "user pays" and "cost recovery" principles.



Improper cost control will also boost the charges for relatively low-cost services to unreasonable levels. And, with the "user pays" principle, the already high charges will go up even further, thus adding to the already heavy burden of the public. The Enhanced Productivity Programme (EPP) of the Government is something which should be commended, but we also feel that it has come a bit too late. Last year, when we "finally" realized that we must reduce costs and launch the EPP, our public expenditure had already become "a runaway horse", which occupied more than 20% of the Gross Domestic Product. It is really not an easy task to turn around the situation and persuade the community to face up to the ever increasing costs.

Well, the Government wants to rein in the runaway horse, and it has chosen to "whip it hard", so as to bring it back to the racing track. Frankly speaking, when a horse goes "out of control", there must be some problems with the ability of the jockey. Has the Government ever reviewed the administrative expenses of its departments? Are such expenses reasonable? Are these expenses cost efficient? Is the existing monitoring mechanism adequate?

As we all know, cost control in government departments will produce a direct bearing on the levels of government fees and charges. I think the Administration holds a far from satisfactory track record in this respect. There have been many cases in which people's interests are adversely affected by violation of economic principles and wastage of public money, and these are revealed and criticized in the annual reports of the Audit Commission. Billions of public money have been wasted over the years. Is ineffective cost control part of the reason for the deficit we are now faced with? At a time when we talk so much about reducing the deficit, about controlling the growth of our expenditure, should we also examine whether our administrative costs are reasonable, whether the monitoring mechanism is proper, and whether the quality of our decision-making is satisfactory?

The Government may, of course, say that it is already adequate to review the levels of its fees and charges once every four years. However, events over the past few years have shown us that the efforts made in cost control have not been good enough.

The DAB is of the opinion that the Administration should enhance the ability of government and quasi-government organizations to control costs, so as to reduce any unnecessary administrative expenses caused by bureaucratic red tape. The Administration can start by reducing administrative expenses, such as by purchasing supplies more prudently, by enhancing maintenance of facilities and equipment and by reducing the use of consumables; and the Government can also save on unnecessary expenses by adjusting its project estimates downwards. Moreover, the Government could also adopt a chain supplies management policy, so as to cut down on stocks and lower the purchase prices of the consumables. Finally, we propose that the Administration should try to reduce energy consumption and cut down its expenses by investing in environmental protection facilities.

I would like to urge Members to consider the spirit of our amendment from the perspective of ensuring reasonable government fees and charges and the affordability of the public. Members should also compare the original motion and our amendment to find out how each of them is going to affect the future levels of government charges. I hope that having done so, they will support our amendment.

Thank you, Madam President.

**Mr Gary CHENG moved the following amendment:**

"To add "various" after "That, to ensure that the"; to delete " to be paid by the public and industrial and commercial establishments under the "user-pays principle" and substitute with "charged by government and quasi-government organizations"; to add "to members of the public" after "fair and affordable"; and to delete "government and quasi-government" after "to strengthen cost control in the"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Gary CHENG to Mr James TIEN's motion, be passed.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam President, at present, the various trades in the industrial and commercial sector in Hong Kong still face difficulties in doing business, and the public is still having a hard time. This certainly has to do with the continued downturn in the economy. However, government or quasi-government organizations have consistently attempted to increase fees and charges for public services under the "user-pays" principle. As a result, the cost of doing business and living expenses tend to rise easily and hardly come down. This is something that we cannot overlook.

"User pays" is, in principle, a fair and reasonable mechanism for charging fees. The industrial and commercial sector as well as the public, in general, do not oppose it. Not only does it facilitate cost recovery or even self-financing by government or quasi-government organizations, it also helps reduce abuses of public services by the people. But the question is how much the "user" should pay in order to be fair and reasonable under the "user pays" principle? This is exactly the contentious point between government and quasi-government organizations and the public.

Government and quasi-government organizations often complain about insufficient revenue and the resultant need to subsidize the public. They consider this unfair to those taxpayers who do not use the services concerned. The Financial Secretary said earlier that fees and charges levied on public services used to feed 20% of government expenditure 10 years ago, but the percentage has dropped to 8% now. In this connection, the Government plans to propose again an increase in the fees and charges for 3 000 items of public services. On the other hand, the "users" always complain that while the "user pays" fee-charging mechanism is fair and reasonable in principle, its implementation often turns out to be unfair and unreasonable. Take the catering industry as an example. The industry has all along considered the "user pays" principle acceptable but the Government's fee-charging standard is so stringent that the industry finds it difficult to fully understand what they should do to comply with the sewage disposal standards. The Government has insisted, albeit in the absence of a consensus reached with the catering industry, that the industry must pay. This has undoubtedly exacerbated the plights of the catering industry which is already suffering from slackened business.

Madam President, while the "user pays" principle is accepted by the industrial and commercial sector as well as the public, it does not mean that the Government can use this principle as an overriding justification for increasing fees and charges. Government and quasi-government organizations must do some soul-searching in order to find out the reason for not being able to recover the cost or obtain the desired profits in providing public services. Is it because they are not doing a good job in respect of cost control, or the "users" are paying far too less?

My view is that while the Hong Kong economy has shown initial signs of a pick-up, the scope of recovery is just modest; and while the cost of doing business in Hong Kong is lowered, our competitive edge should be further improved. The industrial and commercial sector as well as the public still need a respite to build up strength. Therefore, be it the Government thinking to increase revenue for a smaller deficit, or the quasi-government organizations thinking to do the same for a better credit rating, they should effect savings in the first place, rather than targeting at the business sector and the public with the "user pays" principle arbitrarily. For example, can we set a higher target of 10% instead of 5% for the EPP? Besides, given that remuneration and fringe benefits for staff of government and quasi-government organizations account for over 60% of the total expenditure, can the percentage be lowered a little bit? Can we arrange for more resources to be used directly on the public? As for the properties owned by the Government, such as quarters, offices, warehouses and so on, are they being fully utilized in order to maximize cost effectiveness?

Madam President, the Government might have abused the "user pays" principle in citing it as a reason to levy the proposed land departure tax. For more than two decades, Hong Kong's industrial and commercial sector has seized the opportunity of the opening up of the Mainland, setting up businesses in Southern China to take advantage of lower costs there. Neither the Hong Kong Government nor the mainland authorities had then imposed departure or entry tax on Hong Kong manufacturers. The smooth exchanges between Hong Kong and the Mainland boosted the economy of Southern China and paved the way for prosperity in Hong Kong in the 1980s. Faced with the economic recession, more and more people of Hong Kong now turn to the Mainland for consumer spending, work and business. This can in fact ease the burden on local businessmen and citizens and yet, the Special Administrative Region Government now intends to levy a tax on the "users" who departed through land

crossings. This is unquestionably a kind of punishment. Before there is an increase in revenue, the Government, in order to levy the tax, has to arrange for additional manpower and facilities, and shoulder additional administrative expenses while at the same time arousing widespread public discontent. Are these the desired effects of "user pays"?

Madam President, I so submit.

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

**MISS CHRISTINE LOH:** Mr Deputy, I agree with the motion that the Government needs to exercise better cost control. I would like to also call for greater consistency and transparency of how user and polluter charges are actually applied.

Indeed, by developing a new way to tabulate and provide information on costs and calculations, it should help the Administration to control costs better, and for this Council and the public to play their monitoring role more effectively.

Let me explain what I mean. The general principle should be full cost recovery of providing a kind of public service. It is crucial that the basis for the calculation of those charges are explicit and transparent. But we do not always have the full picture as to how those charges are calculated.

It was a great pity that the Sewage Services Trading Fund had to be wound up in 1997 because this Council failed to approve an increase in sewage charge. While this Fund was certainly not perfect, it was the first time that funds had been hypothecated. We had some degree of transparency over operating costs and deficits, including staff costs and consultancy fees paid. It is a pity that the Government does not use a similar accounting arrangements for all other user charges. I would like to suggest to the Government that they should consider doing so.

Another aspect is how the Government calculates the cost of capital. For sewage charges, the Government omitted the recovering of capital costs of the sewage infrastructure. In the landfill charging proposal mooted several years ago, the Government included the capital costs of the landfill. On that occasion, the Government omitted the opportunity cost of the land. Surely, in all user and polluter charges, the Government should take a more consistent approach based on a set of principles rather than on an ad hoc basis. I think this would help people to understand the principles upon which the Government wants to place cost recovery.

Another point is how the Government keeps its accounts. The Government practises a mix of cash and accrual accounting which results in obscurity. The Government also mixes capital and recurrent items. It would be very much better for the Government to adopt accrual accounting which focuses on outputs rather than inputs.

Finally, Mr Deputy, as for the amendment, I see no reason to narrow down the original motion.

**MR CHAN WING-CHAN** (in Cantonese): Mr Deputy, the Government announced recently that over 3 000 items of government fees and charges will be increased in the next financial year given the critical financial state and the fact that the tax base can not be expanded. Among these fees and charges, the land departure tax is said to be in conformity with the "user pays" principle.

We oppose the charging of excessive fees by the Government using the "user pays" principle as a shield. Although the Government announced at the end of August a 2% economic growth in Hong Kong in the second quarter, our economy has not yet fully recovered. The present unemployment rate still stands high at 6.1% with 220 000 people out of work, and the underemployment rate has reached 3.1%. Recently, a little girl from a new immigrant family called the police for help because she was starving as her family ran out of food after her father had lost his job. Similar tragedies do happen in many poverty-stricken families.

Therefore, government and quasi-government organizations should take account of the present economic conditions in determining fees and charges to ensure that they are set at a reasonable, fair and affordable level. They should not pitch their fees at an unreasonable level on the pretext of the "user pays" principle.

I cannot help but cite the now defunct Sewage Services Trading Fund as an example again. The Fund was set up by the Drainage Services Department (DSD) in 1994 for the collection of sewage charges to meet the operating costs of the sewage collection and treatment system. On 1 April 1995, the Government started collecting sewage service charges from all households and businesses in Hong Kong. The din of objection from the public has never stopped since then. The trades directly affected by the TES, especially hotels and the catering industry, severely criticized the surcharge, contending that the rate was unreasonable and that they were not widely consulted beforehand.

In 1996, the Government proposed to increase water charges and sewage charges by 9% and 15% respectively. In addition, the DSD pointed out that sewage charges must be increased considerably for the Fund to break even in 2000, and that the rate of increase from 1997 to 2000 was estimated at 165%. The proposed increase aroused strong discontent among Members of the then Legislative Council and the public. The former Legislative Council unanimously agreed to freeze water charges, sewage charges and the TES.

As the law stipulated that the Sewage Services Trading Fund must be self-financing in its operation, problems were bound to arise in its operating costs when neither the former Legislative Council nor the Provisional Legislative Council approved the increase in the charges. There was no alternative but to close the Fund and the Government would inject capital to provide the funds required. Thus, the Government wound up the Sewage Services Trading Fund on 31 March 1998. Mr KWONG Ki-chi, the then Secretary for the Treasury, pointed out that the operating cost of sewage disposal would be divided equally between the Government and the public.

As a matter of fact, in discussing the viability of the Strategic Sewage Disposal Scheme (SSDS), one of the factors to be considered is how to ensure a reasonable level of sewage charges. It is extremely unreasonable if the people alone are forced to shoulder the exorbitant sewage charges. As Stage I of the SSDS has been delayed for four years and incurred a cost overrun by over \$1 billion, the Government has to reassess the feasibility of Stages II, III and IV of the SSDS. These projects will cost over \$10 billion, plus another several billions in recurrent expenditure. They will have a great bearing on future sewage charges.

It is estimated that if sewage charges would increase at a rate pegged to the increase in general costs, the amount to be paid by each household would be 2.2 to 3.4 times of the present charges in 10 years' time. If the rate of increase followed that in the costs including recurrent expenditure, each household would be required to pay 2.6 to 3.8 times more than the present charges. This will put a great burden on the people.

To conclude, the Government should undertake to provide essential services for the people. It should not shirk its responsibility by simply applying the "user pays" principle to all kinds of services. I agree that government and quasi-government organizations should enhance efficiency and lower costs, but I cannot agree that consideration should be given to finding ways to shift the burden onto the people, thinking that the problems could be resolved once and for all.

Mr Deputy, I so submit.

**MR SIN CHUNG KAI** (in Cantonese): Mr Deputy, I rise to speak on behalf of the Democratic Party to give our support to the original motion and the amendment proposed to it. Personally, however, I do not quite agree with what the Honourable James TIEN said just now. To me, the original motion and the amendment proposed are different from each other. The basic difference between them lies in that while one is talking about an apple, the other one is focusing on an orange.



Mr James TIEN asked whether the apple could become smaller in size. In short, this is a question asking the Government whether it could cut down unnecessary expenditure and thereby render its services more cost-effective. On the other hand, the amendment proposed by Mr Gary CHENG talks about an orange, the segments of which come respectively from the various fees and charges payable to the Government, tax revenues, or revenue collected through indirect channels. This is in fact a question of how the orange should be divided, or a question as to which types of fees should be charged on a cost-recovery basis and which types should not. In my opinion, the latter question, which is the one raised by Mr Gary CHENG, brings out the general truth that the various fees charged should be fair, reasonable and affordable to members of the public. Circumstances permitting, I think the Secretary should explain to us in detail how the Government defines "fees". Strictly speaking, "fees and charges" are determined on a cost-recovery basis; but then there are also fees that are subsidized by the Government. School fees, for example, are certainly subsidized by the Government, since the tuition fees payable to universities could recover only 18% of the costs concerned. However, certain fees payable to the Government are higher than the costs concerned because of their tax element. So, these are the three types of fees levied on members of the public.

If the orange is the issue in question, we would need to devote more time to discussing the principles concerned, so as to determine which types of fees should be subsidized, which should be charged on the cost-recovery basis, and which should be set at levels higher than the costs concerned. If such an opportunity should arise in the future, we would perhaps discuss in detail the second question, which is the orange question. However, the subject before us today is the original question put forward by Mr James TIEN, which is the question of how the apple could be made smaller in size, or how the Government could cut back on unnecessary expenses.

Mr James TIEN raised the question of briefing out certain government services. I think this is a very good example. Actually, the briefing out of government services has something to do with the EPP and the so-called restructuring of the Civil Service. In considering briefing out its services, the first proposal that the Government has come up with is to restructure the Housing Department. In the face of the proposal, many staff members have joined hands with trade union leaders to raise their objection. Speaking of restructuring the Housing Department or briefing out the services it provide, actually I already

urged the Government to consider restructuring the housing management services of the Department five to six years ago, long before the Government put forward its proposal. Over the last more than five years, the number of public housing estates managed by the Housing Department has been on the increase; as such, it is very difficult to downsize the Department after it has grown into the present size. Actually, efforts should be made to investigate how the Department could operate in a more efficient manner when it was still in the process of expansion. It would be meaningful if the Department should brief out part of its services and the management of certain new housing estates to create a competitive environment and then compare the differences in the various costs involved. Now that the Department has become so enormous in size, any downsizing proposal would naturally meet with strong objection. As such, the Government should be very tactful in dealing with the matter.

In regard to government fees and charges or even the operation of the Government as a whole, I have all along held that the Government should give careful consideration to the idea of an electronic government. It is true that I represent the Information Technology Functional Constituency, but I am not saying this to sing my own praises. As a matter of fact, many countries in the world, in particular the United States, have been putting out contracts to tender through the Internet and found that this measure could help them to cut back on costs significantly. Let me cite a very simple example. For the Secondary Six Allocation exercise held in July this year, the Government spent several hundred thousand dollars to commission five Internet services providers (ISPs) through restricted tendering to provide on-line real-time information on the number of vacant places in different secondary schools. A central website was also created to disseminate such information then. In this connection, it has come to my knowledge that some ISPs can provide such services free of charge, since the number of visitors to that central website has amounted to between 100 000 and 200 000 during those few days. So, this is really very cost-effective. Although the Government has made some effort in regard to electronic tendering, the effort is not comprehensive enough. Actually, this is a good way for the Government to further cut back on its expenses or downsizing the apple, an outcome which Mr James TIEN is most happy to see. The Government really does not have to take such a large bite of the apple. I see eye to eye with Mr TIEN in this respect.

On the issue of electronic government, the Government could make use of new technology and Internet technology to directly offer many of its services to clients. With respect to land search and title survey, for example, the Government could make the information on all title deeds available on the Internet to enable the clients to get the information they need in their own offices. Earlier on, I needed to look for some court judgments and have therefore inquired the Judiciary of any easier access in this connection. I asked whether there were any websites at which I could find the material I needed, but was told that the department was still in the process of studying how this could be done.

Actually, there are plenty of ways whereby the various sectors of the community can cut back on unnecessary costs. Let me go back to the court judgment example I quoted just now, since many law firms need to refer to the judgments passed by judges. If a comprehensive website for this should be provided by the Government, not only could lawyers search for the information they need in their own offices, information disseminated by the Government could also be made available to the public as soon as possible, if not immediately. That way, our various industries should be able to cut down their costs, while the Government would in turn cut back on the expenses needed to cater to requests made by industries.

For these reasons, if the Government is to downsize the "cake", it should all the more give careful consideration to the effectiveness of the application of electronic government. Actually, I have cited many examples in this respect before, such as the dangerous slope problem which many panels of the Council have discussed. At present, there are tens of thousands of dangerous slopes all over Hong Kong, if information on all these slopes should be made available on the Internet, landowners and other persons concerned could check them out themselves without going to the Geotechnical Engineering Office. Indeed, it is by no means easy to search any information there. The Government should put all the relevant data on the Internet to help enhance the transparency of its services on this front as far as practicable.

This is in fact a kind of investment, since the financial resources invested by the Government at the very beginning could be recovered in the future. Let me take the banking industry as an example. Back in the '70s and the '80s, banks had to set up many branch offices to provide services. These days, however, banks are closing up some of their branches and offering electronic services through the Internet instead as a strategy to cut back on costs. From now on, the Government should formulate plans to cut down expenditure for the longer term and downsize the "cake".

If opportunities should arise in the future, we could further discuss the "orange" question, which involves issues like which types of fees could include a greater tax element and which should be subsidized by the Government. However, it is not practicable just to ask the Government to charge less, since it would then be unable to generate enough revenue to cover the necessary expenses. Money will not pour down like showers from the Heaven, the Government could only rely on tax increases or its various fees and charges. I do not know if Honourable Members would accept any tax increases, but as far as the Democratic Party is concerned, we have already made it clear that we will accept certain forms of tax increase.

**MR AMBROSE LAU** (in Cantonese): Mr Deputy, according to the Basic Law, the Government shall strive to achieve a fiscal balance as well as reduce and avoid deficits in its budget. The main reason for a deficit to be recorded in three consecutive years is the Asian financial turmoil which dealt a heavy blow to the Hong Kong economy, resulting in a reduction in government revenue. In addition, the introduction of a series of measures by the Government to stimulate the economy and relieve the plights of the people has further reduced government revenue by over \$40 billion. Although the most trying times are over, the economy has not truly recovered and the people need more time to regain their strength. Under the circumstances, the Government should consider the proposals for increasing fees and charges very carefully. The Hong Kong Progressive Alliance considers it necessary to reduce and avoid deficits for it will boost the confidence of overseas investors in Hong Kong. However, in order to reduce and avoid deficits, we cannot rely solely on fee and tax increase. We must also consider reducing the costs of government and quasi-government organizations in the provision of services, in order to tap new sources of revenue and cut down expenditure at the same time. In view of the

continued economic depression and the consensus in the community to ride out the difficulties together, the Government should attach importance to strengthening cost control in government and quasi-government organizations to ensure that the various government fees and taxes are reasonable and fair. If this can be achieved, it will effectively lower costs in Hong Kong as a whole, attract overseas investors and enhance public confidence in the Government.

Mr Deputy, if the Government increased its fees and charges for 3 000 items of services, its revenue would be increased by some \$250 million, which is not a small amount. However, it paled in comparison with the possible cost savings of the government and quasi-government organizations concerned. According to the report of the Audit Commission, the losses caused by the failure of some government departments to make good use of resources and public funds far exceed \$250 million. If government and quasi-government organizations can effectively control their costs and reduce unnecessary administrative expenses and waste, the pressure for fee and tax increase will be eased and deficits can also be effectively reduced or avoided, thus enabling the Government to achieve a fiscal balance and keep expenditure within the limits of revenues as stipulated in the Basic Law.

Mr Deputy, the "user pays" principle should not be used to cover up the failure of government and quasi-government organizations to control costs, economize on resources and have due regard for productivity. The Financial Secretary stated that government fees and charges accounted for 20% of the Government's total revenue in the past but the percentage has dropped to 8% now. However, we should pay attention to the fact that a lower percentage of fees and charges in government expenditure is also attributed to an increase in government expenditure. Government expenditure can be reduced not only by avoiding unnecessary waste. Since the salaries and fringe benefits for staff of government and quasi-government organizations account for over 60% of the total expenditure, their adjustment will directly affect the rate at which government fees and taxes are adjusted. Salaries in government and quasi-government organizations are higher than those in the private sector. While the salaries in the private sector were adjusted to tie in with the market conditions after the financial turmoil, one half of the civil servants could still enjoy a pay rise. This has resulted in an increase in government expenditure despite deflation and goes against the "user pays" principle which stresses reasonableness and fairness. As a general rule of the economy, fees should be

frozen or lowered accordingly when deflation persists, but faced with the pressure of the deficit, the Government now intends to increase its fees and charges. In fact, the main problem lies in the Government's failure to strengthen cost control in government and quasi-government organizations. While the Government is eager to tap new sources of revenue, it has not done enough to cut costs through cost control. Worse still, it seems to be using the "user pays" principle to cover up the inadequacies of its officials and quasi-government organizations in respect of cost control. This shows that the Government has failed to adopt a well-balanced approach of increasing revenue and cutting down costs in an effort to reduce or avoid deficits.

Mr Deputy, strengthening cost control in government and quasi-government organizations is the key to ensuring that the "user pays" principle is applied in a fair and reasonable manner.

Mr Deputy, I so submit.

**MRS SELINA CHOW** (in Cantonese): Mr Deputy, whenever we hear the Government mention the "user pays" principle, we know that the meaning of "user" changes. When the term "user" is referred to the public, the consideration made by the Government will be different from when the term is referred to the business sector. And the ways things are handled will also be different. We often get an impression that the public is treated more leniently while the businessmen are treated more harshly. The reason is that the Government considers the business sector not the ultimate payer of fees and charges. As they will recoup the money from customers, they will not need to bear the costs. The Government will hence impose a higher charge on the business sector when applying the "user pays" principle. This is fully reflected in the various government charges. The Government can be described as less sensitive when it comes to levying charges with a commercial element. The sewage charges offer a clear picture. First of all, to put it bluntly, the fleece still comes off the sheep's back. Secondly, many in the industrial and business sector are small and medium enterprises and many businessmen are under pressure from various sides. When the market is bleak, the consumers are not willing to pay too much. Fierce competition has, on the other hand, limited their revenue. But in terms of expenditure, they face pressure from the Government which considers that they can afford and should bear the charges.

I hope the Government can be more sensitive to take account of the market situation when considering imposing charges, particularly when different yardsticks are applied to the business sector and the public. In the wake of the financial turmoil, even those colleagues who are least sensitive to the business sector now often say that doing business is difficult and tend to be more sympathetic towards the industrial and business sector. Hong Kong, after all, is an economy-driven society. In a free market, we desperately want to see that business operators and businessmen have the incentive to invest. So, we have to be more sensitive and the Government must be more sensitive in this aspect too.

I am constantly in touch with the business sector, particularly such small and medium enterprises as the wholesale and retail industries and the catering sector. They often ask me whether government fees and charges are determined according to the principle of ensuring the greatest economic efficiency. Members can see that government fees and charges are not regulated by market competition because there is no need to resort to tendering. For instance, licence fees are paid to a particular government department. There is basically no free market competition or adjustment resulted from competition in a commercial market. However, government fees and charges are governed by the bureaucratic structure or civil service structure. Under the bureaucratic structure, a government department must have a fixed number of employees, with a certain number of staff assisting its department head. By the civil service structure, I mean the salaries of the civil servants. As we all know, the Hong Kong Government is a generous employer. Apart from the monthly salary, civil servants are also entitled to many other fringe benefits such as leaves and housing allowance. I am not opposing these benefits. But compared with the private market, the Government certainly lacks competitiveness. In other words, if government expenditures are to be met by fees and charges determined according to the "user pays" principle, the Government will certainly be less competitive than the private market.

The bureaucratic structure has not only inflated expenditure, but also failed to guard against excessive expenses. The Estate Agents Authority, for instance, as mentioned by Mr James TIEN earlier, has been queried by some estate agents why it has to pay such a high rent for office space. Why are the salaries of some of its employees so high? Is it really necessary to hire so many employees to handle the work? We are still unable to get a satisfactory answer to these questions. Let me take the wholesale markets as another example. Voters in my constituency told me that the wholesale markets are indifferent to the current slack markets. In spite of the fact that other markets have lowered their rents, the wholesale markets still insist on cost recovery and refuse to make any reduction. Although some of them are now willing to lower the rent by a token perhaps 10%, others have already cut their rents by 30%. It seems that there is no safeguard against excessive expenses.

At present, no measure has been put in place for regulation or enhancing transparency. For instance, there is no need for the Estate Agents Authority to explain its accounts to the public. Under such circumstances, those who pay will definitely be unconvinced. Besides, there is no mechanism on charge reduction. Even if there is a shrinkage in expenditure, a surplus or unspent money, which implies an excessive charge of fees, there is no mechanism available for reducing charges. All these phenomena give business operators an impression that some charges, such as some licence fees, are not value for money.

In my opinion, there is a basic question to which this Council should pay attention. We should really think very carefully when we are asked to scrutinize legislation which will lead to more licensing regimes. Of course, we must exercise regulation on some business. But do we really need to resort to such a exercise as setting up a cumbersome system as licensing, not to mention that we have to pay for the costs?

Thank you, Mr Deputy.



**DR RAYMOND HO** (in Cantonese): Mr Deputy, we could often see in the past few years the term "user pays" principle in newspapers, government consultation papers and official reports. The general meaning of the "user pays" principle can be understood literally. But when the Government proposes the application of this principle to some public services, different people or organizations may hold different interpretations. For the grass roots, "user pays" may imply heavier financial burden; for the industrial and business sector, it may represent an increase in costs. But for the sandwich class who have a very heavy tax liability but do not rely much on government services, it may be a fairer approach.

Generally speaking, the "user pays" principle represents a relatively fair approach which can prevent costs from passing onto somebody else or the community. It will help recover costs and prevent abuses. Let me take the reduction of pollution as an example. The Government can reduce polluting activities more effectively through imposing sewage charges, and waste treatment charges on polluters. At the same time, this will help recover costs. But the government and quasi-government organizations actually need to bear very high administrative costs when implementing the principle. If they cannot control costs, reduce expenditure and do their utmost to prevent wasting resources indiscriminately on the pretext of applying this principle, the public and the business sector will be asked to shoulder exorbitant costs instead. This is going to be absolutely undesirable.

For emergency services related to the maintenance of law and order and protection of life, I think we cannot apply the "user pays" principle because of their unique characteristics. On the other hand, when applying the principle, the Government must be very careful in assessing the ultimate impact on different people and organizations. The Government should also examine different types of public services. It must not apply the principle blindly to all public service charges. In applying the "user pays" principle, the Government should aim at enhancing the efficiency and quality of the public services and to ensure fairness to all sectors. It must not use it as an excuse for lessening its responsibilities and commitments to serving the public.

In applying the "user pays" principle, the Government must consider the affordability of the people and the business sector concerned. Particularly, it should cater to the basic needs of the grass roots and provide proper assistance to them. Otherwise, the principle of reasonableness and fairness will be violated.

Mr Deputy, I so submit. Thank you.

**DR TANG SIU-TONG** (in Cantonese): Mr Deputy, the "user pays" principle is a term often mentioned by government officials. Apparently, it is reasonable. We just cannot ask others to pay for the service we enjoy, can we? But the problem is the price paid may not be what the user can control or change. So, the principle may generate a problem. What we need to consider is the price paid. Is it fair? Is it reasonable? Is it affordable? Has the user enjoyed the service fully? And should the Government pay for part of the price as welfare? These are questions we need to consider in detail.

To be fair and reasonable, the relevant body, government and non-government, should control its costs carefully with justifiable and effective measures so that the price paid by users is value for money. Otherwise, owing to inflated costs, the Government may need to raise prices, and other organizations may follow suit. Consequently, the living and business costs will rise and Hong Kong will lose its competitive edge. Hong Kong may then experience an economic downturn.

Cost control, especially a reduction in unnecessary administrative expenses, is a must for the "user pays" principle. We also need to distinguish which part of the cost should be borne by the user and which part, by the Government, as subsidy and welfare. This will give clarity to the calculation of costs. Thus the people will only be asked to pay for what they can afford. Stability can then be achieved and Hong Kong's competitiveness enhanced.

Mr Deputy, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr Deputy, today's motion and amendment both emphasize the need for the Government to control its costs and to cut down unnecessary expenditure on bureaucratic administration. The difference lies in that the amendment expands the scope of the application of the principle. From the speeches made by Members, it can be seen that we do not have much dispute over the expanded scope. I have several points for further discussion.

First, I think it is an undeniable fact that public funds are squandered in bureaucratic administration. Last year, the report of the Director of Audit pointed out that \$2.65 billion of taxpayers' money was wasted every year. There were reports last year about misuse of funds by directorate level officers. In today's newspaper, there was a report on the Land Registry spending \$140,000 on a banquet. Even their own staff thought the banquet was unnecessary and represented a rotten way of life. Squandering by public officers makes it necessary for the people to pay high prices for services. This is ridiculous. So, the Government must show that it is minded to improve the situation so as to restore public confidence.

Second, the Government often stresses the importance of cost control. But at the same time I think it has to cater to the interest of its employees. In controlling costs, the Government would invariably resort to trimming staff interests and welfare. A recently highlighted move of the Government, called the "Enhanced Productivity Programme" (EPP), has meant less pay or other welfare for many staff, particularly the basic ranks. They are the hardest hit class. To achieve the EPP targets, the Government proposes recruiting staff on agreement terms. For the staff, in addition to having their salary and interests being cut, this means poor morale which in turn means poor service quality and a hindrance to the operation of the Government. To save money, the Government also uses a contracting out system. It is in fact a system where there is over-exploitation. Under the system, employers are not regulated in any way. Their employees are poorly treated and there is no supervision. We can see this from the recent repeated discovery of problems with public housing that resulted from contracting out. We cannot just do what we like for the sake of making savings. I think the most important point is that if users are required to pay, we must make sure they get value for their money. We should not endeavour to make savings at all costs. Here is one more point, Mr Deputy, about squandering of public money. I think squandering is attributable to a

large extent to blunders in policy-making. An example is Stage I of the Strategic Sewage Disposal Scheme (SSDS). To rush the SSDS to completion before July 1997, the Government hurriedly started the Scheme, without doing any proper preliminary exploration work beforehand. As a result, various difficulties were encountered in the works, resulting in a delay of four years and a cost overrun as much as \$1 billion. Moreover, the Government failed to foresee the relocation of local factories to the north into China, leading to a drop in water consumption. So, our reservoirs became full over the rims. Within a period of 10 years, \$30 billion worth of water has to be drained to the sea. Added to this, the poor maintenance of underground pipes has led to heavy wastage of drinking water worth \$800 million each year. Such examples have shown that errors in policy-making are the main cause of squandering of public money. To save money, or to enhance productivity, decision-makers must be held responsible for what they do. They must not be allowed to make mistakes too easily.

Mr Deputy, unnecessary expenditure is incurred as a result of the Government's insistence on some policy principles. For example, while the Government gives very wide publicity to its many environmental protection projects, it insists on not providing assistance to the recycling industry, resigning it to demise. In fact, the Government can make good use of the industry but it has not considered doing so. On the contrary, it proposes to spend \$10 billion to build two incinerators to treat waste materials. This spending can indeed be saved, but it has to be expended now because the Government has headed in the wrong direction.

So, for charges to be fair, reasonable and affordable to the public, the Government must not only control costs, cut down on unnecessary administrative expenditure, but also, more importantly, change its policy and principle. It has to take everything into consideration and prevent wrong policies from giving rise to waste of public money.

Mr Deputy, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, I heard the numerous points raised by Mr Gary CHENG about the "user pays" principle. We agree we should not ask that all services be paid by the user, without considering the

livelihood issues and the affordability of small and medium enterprises. Mr James TIEN questioned the ideas of Mr Gary CHENG. Indeed Members are not disputing the "user pays" principle. They are focusing their discussion on cutting down expenditure on bureaucratic administration, which I think is an indisputable question. That is because should squandering by bureaucrats and unnecessary expenditure lead to losses in public money, everyone will probably raise objection against this. But where is the difficulty? I think, after listening to what Mr TIEN said, it lies in how to define what is unnecessary expenditure and what is unnecessarily high expenditure. I think the biggest difference between Mr TIEN and me lies in our views as regards what is "unnecessary".

For example, Mr TIEN said public services should be contracted out to private organizations as far as possible. In this way huge amounts of resources will be saved. We have great reservations about this. I do not think salary is an unnecessary expenditure. It is necessary expenditure. Workers need it to support their families. A contracting-out system only means what salary there is that can support a worker's family will be lowered to a level that cannot. This is cutting corners by exploitation. This is our greatest reservation on contracting out. For instance, an affiliate of the Hong Kong Confederation of Trade Unions, the Personal Care Workers and Home Helpers Association, informed us that the meal service in the home care sector has recently been contracted out to non-profit-making organizations. As a result of this, meal service workers can now earn a minimum of only \$5,500. Most of them earn slightly over \$6,000 but they used to earn \$8,000-odd before. This is the difference. Of course, government expenditure has been lowered. Some expenditure of the Government, which is extremely unnecessary, such as the high salaries of senior officials, will never be cut. Reduction is applied on the salary of workers earned to support their families and that salary is undoubtedly essential. So, they now do not have sufficient money to support their families.

Another example is street-cleansing. The Government has saved \$2 billion. How? By contracting out again. After contracting out, workers are earning a very low salary. They earn just \$4,000 or \$5,000 each month for an eight-hour working day. Even if they work overtime to a 12-hour working day, they could earn only \$6,000-odd. This is how the Government saves money. It saves the hard-earned money of sweated labour. How can we tolerate that? To enhance productivity by contracting out is the easy way out for government departments.

We can observe a trend that the 5% productivity enhancement relies on contracting out. This represents a most convenient way which does not require much thinking. Nor does it entail any influence on the management, the huge administrative structure. All they have to do is to do away with the basic rank employees and they can easily achieve a 5% productivity enhancement. After that, expenditure on bureaucratic administration on an over-sized structure remains intact. This is the trend we see now. We do agree with cutting down expenditure on bureaucratic administration, but we do not want to see any basic rank staff harmed in the process. Otherwise, we will just be ripping money off their pockets of which becomes profit for some private organizations. So we end up with loss of support for the workers' families, but gain for the organizations. The Government also saves money due to lowered expenditure. But workers will become the only losers in the game, which is the last thing we want to see.

Unless the Government imposes some conditions or benchmarks for contracting out, setting requirements for minimum wages or maximum working time, exploitation of workers will be the only means to help the Government make savings. We are very much against this means. If expenditure is truly saved on bureaucratic administration, I trust all Members will give their full support. So, they will find it difficult to vote on the motion. There is no problem with the wording of Mr TIEN's motion, but I must express my reservations about contracting out.

Thank you, Mr Deputy.

**MR BERNARD CHAN:** Mr Deputy, whether the "user pays" principle is "reasonable, fair and affordable" has been argued without a clear-cut answer in many parts of the world, not necessarily in Hong Kong alone. Hit by the economic downturn, apparently our Government is now considering all possible, yet less painstaking ways to raise revenue, in order to minimize the budget deficit we may have to face in the next two years.

Before we accept the Government's logic of argument, first we have to define what is the concept of "user pays". Is it a principle universally applicable? There seems to be no doubt that if you need a service, you pay for it. No one would think it unreasonable.

In fairness, those who consume more should pay more for it, and this goes by an incremental scale, or *vice versa*. Most of the services provided in a community are subject to the principle of supply and demand. Consumers choose the kinds and volumes of services according to their own needs and affordability, and under normal circumstances, charges are levied at cost.

In my opinion, the "user pays" principle is inherently cost-effective, as it not only helps save the coffers, minimize prodigality, but also provides an incentive for sustainable use. Take another example. The cost for refuse collection should be recoverable by means of universal application, as, I dare say and most of us would agree, that not every piece of garbage in our trash can at home is an indispensable item of daily needs. I believe that the introduction of refuse collection fees, being an effective deterrent against grossly excessive accumulation of daily waste, could go a long way of educating our people to be more environment-conscious.

In my view, facilitating border crossing is a kind of service, which users should pay in accordance with the frequency of use. To be fair to people, who never use such a kind of service, the "user pays" principle will eliminate inequitable subsidization of the service financed from general revenue. I will give my views on the issue as a whole when it comes up for debate next week.

Suffice to say for now that avoiding application of the principle of "user pays", the Government will end up with no alternative but widening the tax base or introducing the element of value-added tax as the means of subsidizing governmental or quasi-governmental services and facilities.

Mr Deputy, the principle of "user pays" not only makes sense, but ensures fairness. However, I must add that if it were to be universally applicable, exceptions should be made in order to alleviate hardship for the needy, to whom such services are indispensable. If the "user pays" principle were adopted without regard for the needs of the underdogs, such application would ultimately discriminate against disadvantaged social groups, while favouring the better-off sectors of the community.

It is difficult to make a case of black and white. Public services like medical care, education, family planning and services for the elderly are all of an essential nature or of absolute necessity, thus they are indispensable. Most of

the people who seek contraceptives and other family planning services come from the lower strata of our community. However, an article in the *New Zealand Herald* on 18 August last year pointed out that the "user pays" system in its country require medical students of Auckland University to have their tuition fees doubled. Such a measure subsequently deters poorer students from doing expensive courses. A situation like this could hardly be justifiable in a society that cares for the weak, the poor and the elderly.

Therefore, by implementing the "user pays" principle, some remedies are required to maintain a decent life for the disadvantaged needy. I propose that if the "user pays" principle were to be introduced, the element of means test should also be invoked to protect those who ill afford the cost of services indispensable to them. To encourage community acceptance of this principle, it is the duty of the government to inculcate its people with the concept of "user pays" as an equitable measure in an advanced society.

Only by arousing public awareness towards equitable share of public fees — not absolute equality, I have to stress — would users acquire greater appreciation of the services and facilities they pay for. With all these comments, I support the original motion. Thank you.

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

(No Member responded)

**DEPUTY PRESIDENT** (in Cantonese): Mr James TIEN, you may now speak on the amendment by Mr Gary CHENG. You have five minutes.

**MR JAMES TIEN** (in Cantonese): Mr Deputy, after Mr Gary CHENG has explained his amendment, I now understand what he is going for. But as a matter of fact, as I mentioned in my speech earlier, my main purpose is not to discuss whether government fees and charges should be levied according to the "user pays" or "non-user pays" principle. When the Financial Secretary revealed the proposal to increase fees and charges for those 3 800 items of public services to which the "user pays" principle applies, we took the view that this



proposal is unwarranted given the present deflatory economic condition. If we look at the matter the other way round, should the Government fail to achieve the target of cost recovery for those items of services, it should seek to effect some savings in costs.

I fully agree with Mr Gary CHENG that whether it be the "user pays" principle (under which fees and charges are levied by the Government), or the "user-not-having-to-pay" principle, the Government should economize on its spending as far as possible. As to the point made by Mr LEE Cheuk-yan, I can respond to it later in the remaining five out of my 15 minutes. But I think there is no problem with the amendment insofar as the Government's "user pays" principle is concerned. On the other hand, secondary and primary education is now provided free, and as the Honourable Bernard CHAN mentioned just now, the Government basically has not recovered the cost of the Comprehensive Social Security Assistance and welfare for the elderly. Can it be that where the principle of cost recovery does not apply, we do not have to monitor the spending of government departments, quasi-government organizations or non-governmental organizations, and let them spend as much as they like? I believe that Members do not agree to this. Be it government or quasi-government organizations, and be it "user pays" or "non-user pays" principle, I hope the Government can spend in a more reasonable manner under the present circumstances. In the past, we might have an affluent economy and many people would spend without hesitation but given the present economic downturn, a budget deficit and the fact that the business sector and the public are facing financial hardships, we should effect savings where possible. For this reason, we remain supportive of Mr Gary CHENG's amendment.

THE PRESIDENT resumed the Chair.

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, the motion moved by Mr James TIEN today is based on the "user pays" principle. The motion urges the Government to adopt effective measures to strengthen cost control in government and quasi-government organizations in order to cut down unnecessary expenditure on bureaucratic administration, so as to ensure that the fees to be paid by the public are reasonable, fair and affordable. I am in complete agreement with the motion and I support it.

As for the amendment proposed by Mr Gary CHENG, I am quite disappointed with it. The reason is that the amendment has taken away the major principle of "user pays" and the motion lends itself easily to the misunderstanding that the concept of "user pays" is no longer important and does not need to be adhered to. Since this misconception may lead to negative impacts, I urge Honourable Members to address that point squarely.

In setting the charges for the most services delivered, the Administration's proven policy is to adopt the "user pays" principle. The principle seeks to link costs with the level of charges, so that service users will pay the costs of such services without requiring taxpayers to bear the burden of these charges.

On the operational level, the Government will set the level of subsidies to some of its services in accordance with policy requirements. Therefore, the Government has never adopted any across-the-board measures under this major principle of "user pays". Honourable Members have quoted many examples just now, such as services which are closely related to the lives of the public like education, medical care and those which have a direct bearing on their livelihood like the tariffs for water supply and sewage charges. For all of these we will provide some subsidies, taking account of the affordability of the public and the need to prevent abuse of these services. As a result, the amount of charges paid by the users is lower, or even far more lower, than the cost of the services provided.

In addition, the Government will adopt a flexible approach in the pace of full and partial recovery of costs. Therefore, in order to minimize the impact of a one-off major increase in fees and charges on the users, we will recover the full or partial costs of individual services by stages. For example, in June this year, the Government submitted a consultation paper on the adjustment of fees and charges. The paper recommended that there should be a minor increase of 5% of the water tariff which had not been adjusted for the last five years. Honourable Members opposed this increase on the grounds that the economy had not recovered. Looking at the matter objectively, however, what kind of impact will an adjustment of 5% in water tariff have on the lives of the people? 15% of the households still need not pay any water tariff. More than 50% of the households will need to pay only \$3 more, that is, the equivalent of about one and a half trips on the tram. This shows precisely that the impact on people's livelihood will definitely be one of the considerations made by the Government in deciding the rate of adjustments in fees and charges.

It follows, therefore, that the "user pays" principle is not only fair but also reasonable. It shows the kind of commitment made by the Government on services delivered to the public and it ensures a reasonable allocation of public resources. From the financial perspective, the major principle of "user pays" can help us implement the low tax policy as specified in the Basic Law, and it is an indispensable measure to achieve fiscal balance in public revenue and expenditure as provided in the Basic Law. This is because the fees and charges of government services are an important recurrent source of income.

Just now some Honourable Members pointed out that 10 years ago, 20% of the recurrent expenditure of the Government came from the fees and charges collected. Nowadays, the revenue collected from fees and charges only accounts for about 8% of the recurrent expenditure. In other words, the taxpayer's commitment with regard to the various items of public expenditure has doubled when compared to that of 10 years ago. The change in this proportion is a result of the substantial increase in the subsidy given by the Government to various social services including education and medical care. It also reflects that the "user pays" principle has not been fully implemented in these few years. As a matter of fact, some of the fees and charges have not been revised for four or five years due to the opposition from the former and the present Legislative Council. So I earnestly hope that this Council can reaffirm this "user pays" principle once again and that Honourable Members can understand that under this major principle the Government will continue to set the levels of subsidy to certain services as required under the related policies. I also very much hope that this Council will consider the proposals for fee adjustment from the Government in a more positive manner since our economy has clearly shown signs of recovery.

I agree completely that charges must be reasonable, fair and affordable. I also agree that it is important for the users that costs should be controlled. We should strive to reduce the cost of public services, minimize unnecessary supervision and abolish some outdated licensing systems as well as some time-consuming and complicated procedures. With the concerted action of the Efficiency Unit, the Business and Services Promotion Unit, the various Policy Bureaux and departments, a lot of efforts have been made in this respect. Now I would like to make use of this opportunity to talk about the policies which have been implemented and those which are being considered.

First of all, government and subvented non-governmental organizations are striving to take the Enhanced Productivity Programme (EPP) forward. Efforts are put to streamline and re-design the operational procedures, applying new management concepts and advanced technology, building a proper working culture and a set of core values. It is hoped that these efforts will raise productivity and enhance efficiency while not affecting service quality.

In the year 1999-2000, the various government departments and subvented organizations will enhance their productivity by a total value of more than \$800 million, of which one quarter is reflected in the expenses reduced. For the year 2000-01, the various Policy Bureaux, departments and subvented organizations will further reduce the existing base-line expenditure by 1%, or an equivalent of \$1 billion. We expect that by the year 2002-03, we can meet the target of reducing the base-line expenditure by 5% or \$5 billion. With the results gained in productivity enhancement, we can control costs indirectly or lower the cost of certain public services. These will have a positive impact on the adjustment of charges.

With productivity enhancement being our major task, we are also dealing with some more fundamental problems in the hope that the productivity of the public sector can be further enhanced. We are making comprehensive reviews of certain public expenditure areas such as tourism, youth affairs and land planning, so that existing resources can be used more effectively.

Just now some Honourable Members expressed concern particularly about the charges in environmental protection and pollution. I would like to inform Honourable Members that the Treasury is carrying out a study with the objective of devising a uniform standard to calculate costs and determine charges in all items regarding the environment. In this process we will also do what some Honourable Members suggested just now, and that is, to enhance the transparency of costs of public services.

We have five departmental trading funds. Although they do not have to commit themselves to the EPP like other government departments, they have made some pledges in cost control out of their own initiative and commercial considerations. They also recognize the need to raise efficiency. Specifically, these trading fund departments have set the targets in their business and organizational plans for the current year to reduce at least 5% of their costs by the end of 2002-03. Presently the departments concerned are seeking to streamline their operations and reduce their costs through the adoption of various measures.

For example, the Post Office Trading Fund will review its mail delivery routes, combine different teams and continue to invest in the mechanization of postal service and in information technology with a view to achieving the highest efficiency and reducing costs. The trading fund of the Electrical and Mechanical Services Department has also pledged that by the end of 2000-01, service charges will be reduced by 17% in real terms as compared to those five years ago. The trading fund of the Land Registry is actively preparing to launch a fully automatic and interactive central registration system by the middle of next year. The system is expected to bring in annual savings of \$12.7 million. It can provide a "one-stop" inquiry service and it will pave the way for the future introduction of a registration system for title to land and property. In the long run, the system is expected to simplify the procedures in property conveyance significantly.

Over the past 30 months, we have completed more than 30 studies and plans on facilitating business operations through the Business and Services Promotion Unit. Most of these can streamline procedures and improve existing services. They can reduce unnecessary administrative expenses and complicated procedures and thereby reduce the business sector's burden in compliance.

In addition to that, we are formulating a set of user-friendly mechanisms to assess the effects of the regulation proposal, including the cost implications on the business sector in complying with the regulatory requirements. When this set of mechanisms is in place, we will be able to analyse the effect of the various monitoring options on the business sector and on other aspects in a systematic manner. We can also analyse how the impact is felt in other areas. We expect the task to complete at around the middle of next year.

It has been our goal to encourage private sector participation in the provision of public services as when appropriate. Our experience shows that since private sector organizations need to compete with their rivals, they can often provide at lower cost more efficient and better services which can meet the needs of the public. Private sector participation enables the Government to spare public money for use in other core and essential services. It will also help the Government focus its attention on policy formulation and the protection of public interest and so on.

The corporatization of certain public services can enhance the efficiency of the delivery of public services and it is a way to control costs. The reason is that in the process of corporatization, the mission and specific objectives of a company must be clearly defined so that there will be a drive towards running the company as a corporation. A public corporation should also operate according to prudent commercial principles and follow the principles of business accounting and fiscal management. These will help raise the accountability and sense of responsibility in the staff. When these public corporations no longer come under the restraints of the regulations and procedures of the Government, they can make swift changes to meet market needs and explore new business opportunities. Therefore, it can be said that public corporations enjoy greater flexibility than government departments. In competitive market situations, public corporations must be able to provide better and faster services which can meet the demand of the public and at reasonable prices. The consumers will then be able to obtain better quality products and services at prices determined by the market.

We are currently looking into certain departments which are suitable for corporatization. We understand that Honourable Members are very much concerned about the monitoring mechanisms in the corporatization proposals on service quality and level of charges. We will discuss the matter with Honourable Members when we are about to go ahead with any corporatization proposals.

The next step for corporatization is privatization. Its object is to enable the corporation concerned to operate more fully under commercial principles. However, many important factors will have to be taken into account if a corporation is to be privatized. One of these factors is to determine if the market situation warrants it. We will make detailed assessment of this according to the merits of individual cases, and Honourable Members will be consulted.

Just now Honourable Members have mentioned that apart from the Government, there are also some public corporations. We know that these public corporations are independent from the Government and they enjoy financial independence. The level of their charges is determined according to prudent commercial principles and considerations are made to the overall situation. Currently, we have four major public corporations, that is, the Housing Authority (HA), the Kowloon-Canton Railway Corporation (KCRC), the Mass Transit Railway Corporation (MTRC) and the Airport Authority (AA). Like any other commercial organizations, they also face commercial risks and the influences of market forces. They need to minimize operation costs as well. The HA is further charged with the responsibility of providing housing to those members of the public who need subsidized housing. As these public corporations operate independently from the Government, we will take part in their formulation of business strategies as shareholders. It must be noted that these public corporations are seeking through many ways to improve their performance and control their costs.

The MTRC, for example, has adopted a series of recommendations made in the wake of a review of employee benefits, rationalization of organizational structure and productivity enhancement. It is expected that costs will be reduced by as much as \$600 million within this year. The KCRC has also formulated a very detailed set of tender procedures that will ensure that the procurement of commodities and services, the contracting out of projects and the disposal of idle assets are made under the principle of value for money. The AA has reduced about 350 employees during the period from March to end September 1999. The AA now employs 1 224 persons and staff salaries will be revised downwards by about 5% to 10%. This will reduce budget expenses for 1999-2000 by 12%. All the Workmen II grade staff of the special task force of the HA are working in two shifts. The arrangement will save overtime allowance by about \$24 million every year. The artisans of the public housing estates now take up part of the gardening work and regular maintenance work which used to be undertaken by contractors. An annual saving of \$59 million can be made.

Madam President, I hope Honourable Members can better understand the determination on the part of the Government and the public corporations in controlling costs from the series of measures and plans which I have just mentioned. However, there is one point which I would like to make it clear to

Honourable Members, and that is, the Government is faced with far more restraints than private corporations in this respect, and so the pace and extent of the completion of these tasks will have to depend on the co-operation and support of many parties, including the Legislative Council.

We have to admit a fact in the first place, and that is, public services are labour-intensive. That means in general, salaries account for 60% to 80% of the costs. Salary expenses are also increased by virtue of the annual increment which the staff members are entitled to get. For example, despite the freezing of civil service salaries, half of the civil service team still have an average of 3% increase in salary as a result of the annual increment they receive. To control the cost of public services, the establishment of the Civil Service will have to be rigorously controlled. We shall work hard on this. Besides, the Civil Service Bureau is presently making a number of reviews of the salary and fringe benefits of the civil servants.

Those Honourable Members who have spoken today have all urged the Government to remove unnecessary regulations, streamline the civil service structure and to use advanced technology to re-design the working procedures. Madam President, I notice though that not every one of Honourable Members would agree to using the reduction of manpower in the Civil Service as a means to solve the problem of redundancy which is very likely to arise as a result of these reforms. It can be seen clearly from the speeches made by Honourable Members just now that there exist some conflicts in this Council on this issue. The Government is well aware of the complexity and sensitivity of this issue. We pledge to discuss this with the civil service groups. We need time for this and we have to deal with it very carefully.

Of course, we will not slack our efforts or to feel discouraged because of the practical difficulties we face in controlling costs. We know that this is a problem which any organization may have to face. But I wish to emphasize that the Government alone cannot control costs successfully. We need to work hard together and we need the support and matching actions from all sectors of society, including the Legislative Council.



From 18 February 1998, most of the charges for public services have been frozen. This is a contingent measure aimed at relieving the hardship of the people under special circumstances. But fees and charges cannot be frozen indefinitely, for in so doing, the cornerstone of our economy, that is, fiscal prudence, will suffer in the end. Now that the economy of Hong Kong has changed for the better, and I can assure Honourable Members that when work is being done to adjust charges, we will take what has been said above into consideration while adhering to the "user pays" principle. Due to policy considerations, we will not seek to recover in certain items of charges all the costs incurred in service delivery. We will take into consideration the acceptability and affordability of the public on the amount of charges to be revised. We will consider how charges should be revised and we will consult Honourable Members on that. I hope Honourable Members can adopt a fair and objective attitude when deliberating on the Government's proposal to revise the charges, and that Honourable Members can make a reasonable decision with the long-term interest of Hong Kong in mind.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Gary CHENG to Mr James TIEN's motion be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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

**PRESIDENT** (in Cantonese): Mr James TIEN, you may now reply. You still have five minutes and 35 seconds.

**MR JAMES TIEN** (in Cantonese): Madam President, first of all, I would like to thank all those Members who have spoken on the motion. In particular, I would like to thank Dr Raymond HO and Mr Bernard CHAN who support my original motion and oppose the amendment.

In proposing this motion today, my main purpose is to lower the cost of all fee-charging government services, regardless of whether the fees are charged according to the "user pays" principle or otherwise, thereby effecting savings in government expenditure.

Madam President, the point made by the Honourable SIN Chung-kai is actually rather valid. He proposed the use of high technology to, for example, upload the list of dangerous slopes onto the Internet, or assist lawyers to check the title deeds and so on. In this connection, both Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung raised concerns about the implications on the existing staff. The Secretary for the Treasury also responded that under the present circumstances, conflicts may arise for a large number of civil servants are involved. I believe that it is rather difficult to resolve this problem today. However, when the economy gradually regains its vitality in future, and if the Government still has the courage, I believe we will be able to do more in this regard in the near future.

The Government said that its fees and charges must be increased, otherwise public finance will be adversely affected. My view is that given a 6% deflation today and a lower rental level in most cases, and even if the salary of civil servants has not been adjusted downward, I do not see why the cost of government services will rise. Given the present circumstances, even if the fees and charges are frozen, the Government should not be facing any financial hardship either.

Just now we mentioned many quasi-government organizations or public sector departments which are privatized. The MTRC and the KCRC are running well after privatization. While privatization is not necessarily linked to the listing of the corporations, the privatization exercise has brought about improvements in their management.

Members from the labour sector are certainly concerned that the initiatives to enhance efficiency may lead to retrenchment, and that the grass roots may not be the only ones made redundant. I believe that those who belong to the supervisory grade and the middle management, as well as grass-roots workers will be affected altogether. As we are currently faced with an economic downturn, greater complications may be involved but I believe that when the economy picks up and when the unemployment rate drops, it will be easier for the Government to work in this direction with a view to enhancing productivity. Under the circumstances, the Liberal Party urges the Government to devote more efforts to control the cost as far as possible. Even if it cannot lower the costs, it must make every effort to prevent them from going up. On the other hand, if the industrial and commercial sector is slackened and cannot take on workers any more, and if these workers are then employed by the Government, this may in a way help resolving unemployment. However, a slackened industrial and economic sector which is unable to take on workers is bound to have shrunken profits consequently. This will, in turn, lead to a reduction in government revenue. How should we make the calculation? How is the economic pie to be shared out? These questions cannot be addressed in this debate today. However, I share the view of Members from the labour sector that both the original motion and the amendment call on the Government to enhance efficiency and lower the costs. While it is now difficult to streamline the establishment of the Civil Service, I hope we can have the chance to further discuss this issue in this Chamber in future.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr James TIEN, as amended by Mr Gary CHENG, be passed.

Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion: The composition of the Housing Authority.

## **THE COMPOSITION OF THE HONG KONG HOUSING AUTHORITY**

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, I move the motion which is printed on the Agenda.

Madam President, a little more than a month ago, an earthquake of 7.3 on the Richter scale took place in Taiwan, leading to countless casualties. I still remember vividly one of the scenes appearing on the television in which a victim pointed to a collapsed building and said: "This is a man-made disaster, not an act of God!" Madam President, you may also agree that a "man-made disaster" is more often than not worse than an "act of God".

Although Hong Kong has not been struck by earthquake tragedies such as those happened in Taiwan, it is really regrettable that dissatisfaction caused by a "man-made disaster" may even be greater than that caused by an "act of God" with the disclosure of the so-called "tofukasu" construction works one after another.

Over the past decade, speculation has been rife in Hong Kong's residential property market, with the construction quality being on a perpetual decline in both the public and private sectors. As public housing under the the charge of the Housing Authority (HA) affects the livelihood of more than half of our population, mistakes made in this area undoubtedly warrant our concern. Although the Secretary has always warned us against exaggerating individual cases, statistics show that since March 1997 to date, there were 36 cases related to HA construction sites where there was violation of agreements with respect to piling or construction works. Because of several well-known incidents that took place recently, the HA was required to make compensation to prospective owners. More importantly, these incidents have caused inconvenience to tenants and led to safety problems.

In December last year, the concrete of the structural portion of the structural walls in one of the blocks in Kwun Fai Court, Ho Man Tin was found to be not strong enough. As a result, four storeys were demolished for reconstruction and the completion date of the relevant estate was thus postponed. This has in turn delayed the occupation date of Valley Road Estate. Shortly after that, concrete spalling and exposure of reinforcement were found in Tin Tsz Estate and Tin Lai Court, which were occupied only two years ago. However, the best-known case was the uneven piling works that took place in Phases I and III of the construction sites in Area 30, Tung Chung and five Home Ownership Scheme (HOS) buildings of Phase I of Tin Chung Court, Tin Shui Wai. As Members are all aware, because of the Tin Chung Court incident, the HA has to compensate nearly \$350 million to prospective owners. What is more, the incident has caused inconvenience to most of these owners. Recently, a piling scandal that took place in Yau Tong and unusual settlement that occurred in Tseung Kwan O were also brought to light. There are a total of 5 500 households in Tong Ming Court, an HOS housing estate in Tseung Kwan O, and Beverly Garden, a private sector participation scheme estate. As a result of an astonishing settlement rate, cracks appeared in most flats of the two estates, posing an extremely serious safety hazard to the residents.

Because of the continual emergence of problems pertaining to the construction quality of public housing, the public has completely lost confidence in the quality and safety of public housing. What is the aspiration of the lower- and middle-class people who have been working so hard all through their lives? Madam President, what they hope for is a "cosy home" only. But regrettably, what they finally move in is a "dangerous building", meaning that even their own safety are being threatened. For the Hong Kong community, this may be a great tragedy of the century!

Madam President, I often heard members of the public criticize that the problems with Hong Kong's public housing and HOS flats are obviously downright "man-made disasters", not "acts of God". It is really surprising that no one in the government framework has been held responsible for these incidents. The Secretary has always said that the poor construction quality of the HA has got to do with individual contractors only. It has nothing to do with the composition and membership of the HA. Nevertheless, Madam President, I want to tell Members that the root of all these problems precisely lies in the framework of the HA.

It has been pointed out by a number of people that many construction blunders that took place in recent years were caused by the fact that the HA has in recent years spared no effort in promoting the contracting-out system and yet, at the same time, it has failed to supervise actively its contracting-out work, in addition to its tendering policies of "awarding tenders to the lowest bidders". As successful bidders are awarded tenders under this principle, they will be forced to use the cheapest materials and complete construction works within the shortest period of time. In some more extreme cases, they will resort to such illegal means as jerry-building as has been adopted in the uneven pilling incident mentioned before. As Housing Department staff were previously responsible for direct supervision, it was easier to spot problems should they arise. However, in order to reduce expenditure, the HA has even contracted out its supervisory work to other companies. Now only one or two staff members are appointed to carry out supervision. For construction works of such a large scale, what the HA has done is just like a drop in the bucket for there is absolutely nothing it can do in solving problems. The fact that buildings constructed by the HA are not required to be inspected by the Buildings Department has also made it impossible for problems to be spotted promptly. It is also for this reason that Tin Chung Court was found to have uneven pilling after 18 storeys had been built.

Of course, the poor construction quality is caused by the HA's contracting out of its supervisory work and the policy of "awarding tenders to the lowest bidders". However, the rationale behind this policy is precisely geared towards profit-making. The safety of residents is not given priority consideration. Madam President, a representative from an organization which has met with Ms Rosanna WONG, the HA Chairman, a few days ago described the Chairman as considering problems entirely with the mentality of a property developer. When faced with residents affected by uneven pilling works, the Chairman asked what else the residents wanted as she thought the matter was already over and done with with the granting of compensation. She has not considered the inconvenience caused and the danger posed to the residents by uneven pilling. This precisely reflects the fact that the HA's policy-maker has absolutely not considered the problem from a humanitarian perspective and from the angle of the residents in the course of making decision.

Madam President, the fact that the HA has not taken the residents' interests into prime consideration in making its decision is evident in the poor quality of public housing completed recently. Apart from that, we can also see that many policies formulated by the HA run counter to public opinion and are not well-received by the general public.

For instance, in the past, we could see that a relatively large proportion of public housing flats built by the HA were sold as HOS flats. As a result, people of the lower strata who were waiting for public housing were constantly asked to wait for a very long period of time. Moreover, many residents suffered from unfair treatment as a result of the public housing policy. For example, the policy has long been discriminating against single people, who are constantly asked to wait in the line, and it may take as long as nine years for them to be allocated with public housing. For many grass-roots residents, this is really unfair and unreasonable. In addition, there is also the well off tenant policy, which has constantly been a subject of public criticism.

Madam President, it is too long a story to tell for there are still plenty of policies like this. I only wish to point out that, as an organization responsible for formulating housing policies as well as constructing and managing public housing, the HA is actually closely related to the people. It is regrettable that

the composition of the HA does not represent the aspirations of the public and reflect their views. The shortcoming of this composition is precisely the root of many problems that have arisen.

Over the past years, it has been proved that the HA, which is entirely an appointed institution, has failed to effectively respond to the public demand with respect to housing policies and effectively carry out its duty of supervising the construction of public housing. To let the problems drag on will only further undermine public confidence in public housing and further aggravate their grievances. The only way to restore the HA's creditability and public confidence is to add democratic substance to the composition of the HA!

There can be many different options to reform the HA and enhance democratic participation. In fact, before the reunification, Members of the then Legislative Council, Mr LEE Wing-tat and Mr Bruce LIU, did each move a private bill on the restructuring of the HA, only to be vetoed by a narrow margin.

Although the motion I moved today carries no legal effect, the Government seems to have taken it very seriously. I believe Honourable colleagues have received the letters sent by the Government to lobby Members to vote against my motion two days ago. I want to take this opportunity to respond to the viewpoints put forward by the Government.

The Government started off by saying that advisory bodies must consist of professionals. An appointment system will not only facilitate the professionals' participation, but also help prevent policies from "being politicized".

Madam President, I must point out to the Government that the HA is completely different from other government advisory bodies by nature. Having the power to formulate housing policies, the HA is also a policy-making body. It controls huge resources for public housing construction and gives direct instructions to the Housing Department on implementation of its policies. Equating the HA with a normal government advisory body will undoubtedly belittle the HA's status.



As the HA has the power to decide on housing policies and is responsible for public housing construction, the public has an even stronger reason to ask this framework, which is responsible for both policy-making and enforcement, to put in place channels to fully reflect their views. At the same time, its members should be liable for the wrong decisions made by them. Madam President, I do not doubt that the HA has indeed a number of experts who can provide a lot of professional advice. Also, I am not trying to deny that they have made enormous contribution. But the fatal weakness of an appointment system is that appointed members do not have a direct understanding of the public's aspirations and demands. At the same time, they will not make any commitment to the public or be accountable to them. As a result, a lot of housing policies have triggered off public resentment or failed to gain popularity among the public. At the same time, the HA is unable to devote all its attention to monitoring housing construction works.

Madam President, the Government is of the view that the existing appointment system can balance different interests in the community and make the HA to be more accountable to the community. I have no idea what logic the Government holds. According to the Government, election should not be allowed to exist in the whole Government, particularly in this legislature. Instead, we should go backwards to the colonial era when there was an appointment system. If this is really what the Government has in mind, I hope the Secretary will not act "evasively" in delivering his speech later and try to exercise autocratic administration in the name of balancing different interests in the community!

As a matter of fact, past experiences have made it clear that the HA, which came into being by appointment, has not only failed to convey the public's aspirations and take the well-being of the residents into consideration, but also failed to cater to the needs of the general public. So far, the Government's appointment system has been used as a means to deceive the public, failing entirely to genuinely cater to the actual needs of the public.

The Government has also indicated that it is unfair to all members of the HA if they are asked to resign collectively. Some members have also remarked that there is no reason to ask them to resign for the HA's achievements outweigh its errors. Madam President, I must clarify that I am not trying to deny the work done and the contribution made by the HA. In my opinion, the HA has made achievements as well as errors. But why do I ask its members to resign collectively? It is mainly because I hope the Government can reorganize the HA and set up a new framework with election substance to give it a chance to introduce democracy and elect its members.

Madam President, I have actually got the inspiration of asking the HA members to resign collectively from Dr TANG Siu-tong. In a meeting held by the Panel on Housing more than a month ago, Dr TANG pointed out that the Government was determined to "scrap the two Provisional Municipal Councils" even though they had not done anything wrong. Why has the Government not "scrapped" the HA even though it is now obvious to us that so many mistakes have been made?

Madam President, I only want to respond to Dr TANG Siu-tong's concern in moving this motion to ask the HA members to resign collectively and reform the composition of the HA, as well as asking for an election with a democratic element. I hold an open attitude towards the electoral mechanism. I think we can consider the matter carefully and hope Honourable colleagues can put forward their opinions.

Madam President, I so submit.

**Mr LEUNG Yiu-chung moved the following motion:**

"That, as many housing policies formulated by the Hong Kong Housing Authority (HA) have long been the subject of public criticism and with the recent surfacing of successive problems in the poor quality of public housing flats and substandard piling in housing construction works, this Council considers that the performance of the HA, in both formulating policy or supervising construction works, has been very disappointing; this Council also considers that the root of all these problems lies in the fact that the HA's members are all appointed by the authorities and lack representativeness and accountability to the public; in this regard, this

Council calls on the HA members to resign collectively; at the same time, this Council urges the Government to over-haul the composition of the HA by introducing a democratic election element in the HA, including grass-roots representatives and enhancing the transparency of its operations, so that the HA can be genuinely geared to the needs of and be accountable to the public."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung, as set out on the Agenda, be passed.

**MR LEE WING-TAT** (in Cantonese): Madam President, the incumbent members of the HA are mostly professionals connected the real estate sector, including surveyors, bankers, lawyers, architects, accountants and so on. The HA also comprises members from the social service and academic sectors but there are only a handful of members representing the grass roots. As professionals connected with the real estate sector are conversant with housing matters, they can made a certain degree of contribution to the formulation of housing policies. Yet, as the principal task of the HA is to draw up housing policies which have implications on the lower middle class, the HA must embody sufficient representation of public opinion in its composition to ensure that its policies are in line with public interest.

In recent years, the HA has indeed made policies which go against the interest of the lower class insofar as housing is concerned. Being one of the very few grass-roots representatives sitting on the HA, I was unable to block the passage of those policies even though I had voted against them. Last year, the Housing Department (HD) endorsed with lightning speed the policy which required all prospective tenants to go through the assets test before they would be allocated public housing. Having learned of this proposal, the Legislative Council Panel on Housing immediately convened a special meeting for it. At the meeting, Members from various political parties criticized the HD for neglecting the plight of the low-income group amid the difficult economic conditions. Moreover, despite the fact that a negative economic growth of 5.1% plus an unemployment rate as high as 6.2% were recorded for the year 1998-99, and that public housing tenants were earning 5% to 10% less on an

average, the HA had only frozen the rent of public housing but resolutely refused to lower the rental level. This had resulted in the median rental-to-income ratio in 1998-99 increasing from 8.6% to 9.2%, which was close to the ceiling of 10% prescribed in the Housing Ordinance. All these show the very limited strength of the few representatives of public opinion in deterring the HA from endorsing policies which run counter to public interest.

Furthermore, the many incidents that took place recently have revealed the urgency for improvements to be made to the HD's housing construction system. Cases of uneven settlement resulting from faulty piling works at Tin Chung Court in Tin Shui Wai and also on the construction sites for redevelopment projects in Yau Tong have exposed mistakes made by the contractors in the construction works, by the consultants in supervising contractors, and by the HD in its monitoring and inspection efforts. As a member of the HA, I certainly hold that the HA must be accountable to the public, but the HD must also draw a lesson from the bitter experience and overhaul the existing housing construction and regulatory systems. As I said in the debate on the policy address, the HA should primarily base its consideration on the quality and track records of tenderers in awarding contracts for piling and construction projects through public tender. Besides, the HD must improve the procedures for monitoring the various stages of works and those for inspection and acceptance. Also, it must step up efforts in conducting spot checks and closely monitor the supervising consultants, for example, by inspection of all the piling rods. In addition, the HD should limit the number of times a contractor is allowed to subcontract works to other contractors, and require the principal contractor to subcontract works only to contractors or subcontractors approved by the HD. That is to say, the HD has to compile a register of contractors and subcontractors for various types of works in order to ensure that works undertaken by the subcontractors meet a certain standard. Lastly, the HD must stipulate the proportion of workers employed direct by the contractor, and require the contractor to hire a designated proportion of workers who have passed the trade tests. The HA must be determined to carry out reforms so that tenants of public housing will not have to live in fear every day.

The Democratic Party supports that the HA should be accountable to the public so as to ensure that its proposals are shaped in line with public interest. In fact, as early as in the 1995-96 Session, I sponsored a Members' Bill on the composition of the HA, proposing that HA members should be appointed by the

Governor subject to the approval of the Legislative Council. We still consider this proposal desirable now for it can ensure public accountability on the part of the HA. We propose that HA members be appointed by the Chief Executive from amongst government officials, professionals, people well versed in housing policies, academics and grass-roots representatives, subject to the approval of the Legislative Council. This will enable the HA to strike a requisite balance between the overall interest of the community and professionalism.

Madam President, as a member of the HA and also its Building Committee, I do not think it appropriate of me to discuss the performance of myself and that of my colleagues. But in all fairness, I must say that among the many committees that I sit on, membership with the Building Committee of the HA requires a high level of professionalism and dedication, and provides an avenue for close monitoring on the work of the HD. For political reasons and based on the consideration of accountability, I support the motion of the Honourable LEUNG Yiu-chung. Given that the policies are formulated by the HA and that the HD is under the supervision of the HA, it follows that the HA should be ultimately made responsible for the serious problems on HD construction sites. Yet, as to whether the problems can be resolved by the collective resignation of the incumbent HA members and replacing them by new ones, I personally have reservations about it.

Madam President, days ago the Secretary for Housing unusually held a press conference to defend the HD/HA in respect of the mistakes made by them recently. I think it was unnecessary. Instead, what the Housing Bureau, HA and HD should do is to rectify mistakes, if any, and constantly strive for improvement.

Madam President, Mr LEUNG Yiu-chung's earlier remark that the HA still adopted the principle of "the lowest bidder wins" in awarding contracts through public tender is incorrect. At present, prices and quality are given equal weight by the HA in most cases. However, I share the view of Mr LEUNG Yiu-chung that more weight should be tilted to quality.

Mr LEUNG Yiu-chung also cited the contracting system as a cause for the problem. This I do not fully agree with him. It is because among the construction projects on which over \$40 billion is spent by the Works Bureau annually, many of the projects as well as the consultancy work are contracted out.

Why is it that none of the problems has arisen for those public works projects when the HD and HA are beset with a host of problems?

In view of the incidents that occurred recently, Madam President, I think we need to conduct more discussion and studies to find out the crux of the problem with the existing HA and HD, and even the culture of the construction industry as a whole. For this reason, I hope Members can make an effort to attend the special meeting of the Panel on Housing (which may probably hold a number of meetings for this purpose) so that we can debate the issue and identify the root of the problem.

Thank you, Madam President.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, the various problems with public housing in terms of quality, substandard piling and leakage have indeed aroused our concern recently. I will speak on today's motion on the basis of Mr LEUNG's speech and I will mainly focus on three aspects.

The first reason why Mr LEUNG asked for an overhaul of the composition of the HA is that he thinks that many housing policies formulated by the HA have long been the subject of public criticism and disappointment.

In fact, many policy decisions made by the HA in the past were disputed, but the achievements of the HA were not that disappointing if viewed from another perspective. This is an indisputable fact. At present, the HA provides over 600 000 families with flats at rents below market rate and improves their living environment. Hong Kong almost ranks first in the world in terms of the proportion of our population living in flats subsidized by the Government. The HA has also promised to provide 50 000 flats every year which is a decision widely supported and appreciated by the public. Besides, it has promised to shorten the waiting time for public housing and freeze rents for rental flats and shops. Despite the fact that this was the result of efforts made by the community, undeniably, the HA has finally answered to public opinion and made improvements. The HA also co-ordinated with the Government and provided 270 000 HOS flats and different forms of home purchase loans and subsidies amounting to tens of thousands of dollars. These policies are positive and supported by the public. Therefore, it is too arbitrary and biased for the public

to criticize the HA on the basis of some policies it made in the past and thus denied its contribution to the community.

Secondly, concerning the recent surfacing of successive problems in the poor quality of public housing flats and housing construction works, the Democratic Alliance for the Betterment of Hong Kong (DAB) thinks that the causes of these problems are not directly related to the composition of the HA. Mr LEUNG asked for an overhaul of the composition of the HA as he thought that this would solve all problems, I believe he may not have understood these problems thoroughly.

Madam President, after the DAB found that construction works by the HA were shoddy with inferior materials used, it had met and discussed the issue with those in the engineering sector. Summing up the views of seniors in the engineering sector, we think that there are five major causes for these problems. Firstly, as contractors collect excessively low tender prices, they cannot make profits and they have to suit the goods to the prices. They even take the risky path of resorting to shoddy work, using inferior materials and bribing regulators, to the neglect of public interests. Secondly, ineffective monitoring by consultancy firms, especially when several projects are in progress, is another cause when the consultancy firms let inexperienced staff take charge of supervision, giving rise to ineffective supervision. Thirdly, under the sub-contracting system, unqualified or inexperienced contractors are employed for some works, and excessive sub-contracting will thus reduce the actual construction costs available, thereby resulting in poor supervision. Fourthly, the standards and materials of public housing are worse than those of private housing because a balance was struck between quality and prices when tenders are made, therefore, the standards of public housing are often lower than those of private housing. Lastly, is the problem of insufficient talents. We can see that works were completed to an inferior quality for a certain time period in the past as construction workers in Hong Kong were actually of an uneven quality.

As a result of the five causes above, problems of varying degrees emerge in the course of enforcement but they are not evidently related to the composition of the HA, the highest body in charge. The DAB fails to see how overhauling the composition of the HA as proposed by Mr LEUNG will actually improve the quality of public housing and monitoring of works. On the contrary, if the HA can pinpoint at the sources of the problems and speedily tackle these problems

and loopholes, the DAB sees no significant reasons why all HA members have to resign to overhaul the composition of the HA.

Thirdly, concerning the existing composition of the HA and the merits and demerits of introducing a democratic election element in the HA.

As a policy-making body affecting almost 50% of the population in Hong Kong, the HA must look after people from different classes and fully consider and balance the overall interests of Hong Kong when it makes policies. Therefore, the composition of the HA should comprise grass-roots representatives and people who have expert knowledge and in-depth understanding of the relevant issues. If there are too many members from any sector, it will be difficult for the HA to fully consider the interests of all sides when it formulates policies, and the public may finally lose more than they gain.

Therefore, the DAB opposes the motion moved by Mr LEUNG Yiu-chung today.

Madam President, I so submit.

**DR RAYMOND HO** (in Cantonese): Madam President, in recent years, the public housing policy of Hong Kong has been making progress on many fronts. These include the Tenant Purchase Scheme introduced in 1997, the Home Purchase Loan Scheme of 1998 and the Rent or Buy Option of 1999. On the other hand, the Government has also implemented the so-called "well-off tenants" policy in public rental housing since 1996. This policy is meant to maintain the reasonable allocation of resources in public housing. All these schemes involve not only the personal interests of the residents of public rental flats, but also the distribution of resources in society. Therefore, the relevant policy has been the concern and subject of discussion for the community. There are of course those who agree with it or oppose to it. This is only natural. We cannot say that there are some problems with the HA since some of its policies and measures are not accepted by some people in society.



I am not favouring the HA, I am only talking about the truth. I wish to say something fair for those members of the HA who have sacrificed a lot of their private time and do not receive any remuneration for it at all. I have the experience of serving on different government advisory bodies for many years and I am well aware of the feeling of not being appreciated for the efforts made. The recent spate of incidents uncovered in the construction works and quality of public housing projects shows that there are areas which the HA ought to improve. However, I do not think there is any need to change the existing appointment system, only that action should be taken to make the system better.

The appointment system practised by the HA has been running very smoothly. The existing members of the HA include professionals from different fields, academics, Members of the Executive Council, two Members from the Provisional Urban Council and the Provisional District Boards, owners of subsidized housing flats and Members of this Council. They are representatives of different sectors in society and they provide all kinds of professional advice. In terms of the composition of the HA, however, I think there is a need to include representatives from the engineering profession, especially professionals in project management. They can offer professional advice to the HA with their expertise in the field. The recent quality and piling problems in HA projects are sound reasons for including engineers in the HA as representatives.

As for the arrangement whereby the Director of Housing serves as the Vice-Chairman of the HA, I have some reservations on that. The Housing Department (HD) is the executive arm for the HA, it is charged with the responsibility of implementing policies formulated by the HA and the various committees under it. The fact that the Director of Housing is a member or even an *ex officio* member of the HA can certainly assist in the work of the HA and this arrangement also helps the implementation of the relevant policies and measures by the HD. However, there is no compelling reason for the Director to be the Vice-Chairman of the HA. It will only create an impression of blurred roles and makes people doubt the ability of the HA in overseeing effectively the work of the HD.

In recent years, when the HA was implementing some new policies, it seemed that it had not considered the impact of the changes well enough and did not make any commensurate responses. One example is the problem of supervision caused by the contracting out system. As I have said before, this problem is due to the fact that there is a lack of people among members of the HA who are familiar with the management of construction projects. It is imperative for the HA to step up its supervisory efforts when it is to carry out its contracting out system. An independent housing safety assessment group may be set up under the Director of Housing. This will serve to solve the problem of a conflict of roles among the engineering staff. On the whole, the HA should focus more attention on change management. It should study carefully the impact of new policies on the overall structure, operation and staff. Matching human resources strategies, adjustment to the framework, changes in the construction flow process and the setting up of monitoring mechanism and so on should be made.

Madam President, in view of the above, I so submit and oppose the motion moved by Mr LEUNG Yiu-chung.

**MR NG LEUNG-SING** (in Cantonese): Madam President, I am a member of the HA. Just like hundreds of HA members who took part in the provision of over 900 000 public housing and Home Ownership Scheme flats in the past decades, I have taken up this public office with heavy responsibilities for no monetary reward. I have taken up this public office because I think that my past experience in the Land Commission and commercial bank management can allow me to make a little contribution to the policies and development of public housing in Hong Kong.

Madam President, for decades, most HA members have tried their best and felt no qualms upon self-examination, naturally, their achievements and errors are open to comment by the public. As no personal interests are involved, I definitely do not need to decline to shoulder the responsibilities. However, out of my concern about public housing policies in Hong Kong, I am worried if the measures proposed in this motion will work for Hong Kong. Will they be destructive instead of constructive for Hong Kong?

Firstly, in regard to monitoring the quality of works, the HA is playing a macroscopic role in relation to policies while the HD takes charge of their actual implementation. In actual operation, to satisfy the demands for more public housing as soon as possible while streamlining the organization for enhanced economic efficiency, construction works and supervision should be gradually contracted out. Therefore, the policy direction of contracting out works and monitoring is correct. Recently, the supervisory companies hired by the HD on monetary contracts have failed to fully perform their supervisory functions, and it is even suspected that negligence and fraudulent practices by individuals may be implicated, but this certainly awaits investigation. I think that we should actively make reference to market practices and continue to perfect the systems for contracting-out of works and supervision in order to plug loopholes and improve the follow-up and monitoring mechanisms, penalize by law irresponsible contractors and works consultants and pursue liabilities according to contracts. In my view, we can solve the practical problems only by actively improving work flow and stringently enforcing contracting-out contracts. Indeed, what we need to do has nothing to do with the composition of HA.

Madam President, if the composition of the HA is really changed as proposed in the motion and a democratic election element is really introduced, do we expect that these members should know how to inspect construction sites and insist on inspecting every construction site every day so that they can better ensure that the quality problems with these construction sites can be solved? Definitely not. In respect of structural arrangement, just like the Legislative Council's monitoring of public works implemented by the Government, if problems similar to those with the Stage I sewage works or the extension of the Hong Kong Convention and Exhibition Centre New Wing are found, should all Legislative Council Members responsible for monitoring the Government resign collectively to offer the public an apology? Will the problems be solved this way? If the quality control problems can be solved by means of election, I am afraid it is not necessary for the community to train and employ specialized talents for management and control.

Madam President, the HA was formed in accordance with the Housing Ordinance and it exercises statutory powers to facilitate the construction of public housing. It has explicit rights and responsibilities. HA members have long been concerned about the interests of different strata of the community and they possess professional knowledge and experience covering different fields of public housing policies. They also formulate policies for public resources utilization on the principles of being fair, reasonable and effective. In fact, there are limited public housing resources and public housing policies utilize public resources to help people in genuine need. Therefore, the social strata it serves include the middle class, the sandwich class, public housing tenants, and a large number of people on the Waiting List and new arrivals. It should make policies as to how resources should be allocated, and how income requirements and assets ceilings should be set in a responsible, objective and impartial manner. If decisions are made on the basis of the number of votes, the HA will become a battle field in which interested parties will scramble for resources. It will fail to achieve impartial and reasonable allocation of resources and it can hardly take care of the underprivileged comprehensively and effectively.

Madam President, in view of the composition and work of the HA over the years, I think its achievements should be affirmed. We should definitely face up to the individual quality monitoring problems that are found in public housing works recently and penalize by law problematic contractors and supervisory companies. Yet, the reform direction as proposed in the motion fails to suit the remedy to the case and constructively solve the problems. Thus, with these remarks, I oppose the motion.

**MRS MIRIAM LAU** (in Cantonese): Madam President, a spate of problems has recently been found in many construction sites under the HA. Such problems relate to "short piles", jerry-building, precast façade units and so on. All this has led people to doubt the quality of the housing units developed by the HA. There is no doubt that these problems must be tackled as quickly as possible, so as to improve the quality of the housing units constructed by the HA and to ensure public safety. However, we must still try to identify the root causes leading to the poor quality of our public sector housing units. The Liberal Party fails to understand why Mr LEUNG Yiu-chung has put forward his argument,

which practically turns the professional matter of housing construction into a political issue; nor can it see how the appointment system of the HA can possibly be related to the professional matter of housing construction.

The HA is a statutory body set up for the special purpose of implementing the public housing programme of Hong Kong, and it also advises the Chief Executive on matters relating to public housing. It plans and constructs public housing through its executive arm, the Housing Department (HD). The Liberal Party is of the view that when problems relating to public housing construction occur, they should be dealt with on a case-by-case basis, so as to find out who should be held responsible. And, if the HA concludes that individual members must be held responsible, actions should be taken. However, we must not "take one for all" and hold the whole HA responsible, asking all its members to resign as a show of their accountability. This is both unfair and unreasonable.

Housing construction is something very professional. Therefore, if the community wishes to monitor the whole thing effectively, it must rely on people with real professional expertise in all segments of the construction process — not on any so-called people's representatives. That is why whether or not members of the HA are returned by elections should not be of any key importance. Contrary to some people's expectation, if members of the HA are now going to be returned by elections, it will become even more difficult for us to ensure that professionals with expertise in housing construction and management are always included in the HA. The HA may then become even less able to supervise public housing construction.

To be fair, I must say that people's representatives are already found in the HA. Currently, nine HA members are chosen from among the elected members of the various tiers of our representative government, and there are also five grass-roots members coming from district organizations, mutual aid committees, other public bodies, advisory bodies and even public housing tenants. Such a composition can already adequately reflect the opinions of the grass roots. Therefore, I think the argument of Mr LEUNG Yiu-chung can hardly be justified.

The Liberal Party is of the view that if we really want to prevent any further jerry-building and shoddy work, we must first enhance the supervision of the various aspects of construction works, so as to detect problems as early as possible. By this, I do not mean that we should try to insert any extra formalities, requiring people to make reports on all matters regardless of their significance. This will only make the whole process even more bureaucratic. Rather, we should eliminate all bureaucratic red tape and foster a new culture of work, so as to enable the HD and the consultancy firms responsible for works supervision to build up a genuine partnership, to co-operate well and to complete all works satisfactorily. I wish to make such a proposal because the communication between the HD and the consultancy firms is far from being adequate, and they simply deal with each other by following complicated bureaucratic procedures. The Liberal Party thinks that as long as such a bureaucratic work culture remains unchanged, there will never be any genuine improvement in works supervision.

Besides, in order to encourage building contractors to lay stress on quality, the HD must introduce changes to its existing tender system under which contracts are awarded to those who offer the lowest bidding prices. In other words, during the vetting process, tender prices should not be treated as the most important consideration. Rather, particular caution must be exercised when vetting tender prices which are unusually low. In the vetting process, the HD must seriously consider the track records of the bidders and their ability. It should refrain from awarding too many contracts to one single contractor all at the same time lest this may lead to declining quality.

Also, I must say that the system of "sub-contracting" does have its merits. Over the years, the system of permanent employment has never been popular in the construction sites in Hong Kong, because "sub-contractors" can control costs more effectively. And, the system of "sub-contracting" has been adopted by the construction sector for many decades and has worked very well so far. However, the Liberal Party still thinks that the number of "sub-contractors" should be reduced as much as possible for the purpose of quality assurance. The reason is that with too many tiers of "sub-contracting", the contractor at the bottom who gets but very little money for his contract may well fail to ensure the quality of his work. Such a contractor may also have to rush along and thus

overlook industrial safety in the process. The HD should negotiate with its principal contractors on reducing the tiers of sub-contracting so as to ensure quality of construction works.

Madam President, both quality and supervision must be enhanced before we can ensure public safety. So, in addition to asking the HA to introduce measures to improve its works supervision, the Government should also do its best to help the construction industry improve the quality of its works.

With these remarks, Madam President, I oppose the motion on behalf of the Liberal Party.

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

(No Member responded)

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, a few Members have just expressed their views on the quality of public housing. In fact, I fully understand Honourable Members' concern and concur with their views. We must take actions immediately to enhance public confidence in public housing. Firstly, I would like to point out that the recent events show that the construction industry itself is responsible for performing their duties well. As the HA will carry out huge construction projects in the next few years (it is estimated that a total of 400 000 rental public housing and subsidized housing flats will be completed within the next seven years), we hope that the construction industry and the relevant sectors will respond to the recent events and take the initiative to adopt improvement measures to solve the problem from the ground up.

Certainly, the HA must handle the matter carefully. The HA has always attached great importance to the quality of public housing, and, to a certain extent, the recent events showed that the HA has improved its monitoring and its system has performed its due functions. The HA will definitely — I stress definitely — not accept substandard building quality and it will not effect

acceptance of such buildings. To date, besides stepping up investigation into the recent events and identifying the parties responsible, the HA has also conducted a thorough review to find out how the existing monitoring system can be enhanced in respect of each work procedure as well as consulted the views of the relevant parties including the Works Bureau. It is estimated that a concrete conclusion and improvement measures will be available within a few months.

I do not concur with the comments made by some Members on the policies of the HA. The HA has always striven to implement the directions and objectives set by the Government of the Special Administrative Region (SAR) in the White Paper on Long Term Housing Strategy that are accepted by the general public. Even though the HA may meet opposition in the course of implementing such policies, the HA handles every problem carefully as it strives to allocate housing resources in a fair and reasonable manner. It can cater for the needs of individual citizens and safeguard the overall interests of the community.

The Government opposes the motion on "the composition of the Hong Kong Housing Authority" moved by Mr LEUNG Yiu-chung. His motion has denied the contribution made by the HA and its members to the community over the years and seriously affected the effective operation of the HA in future as well as the implementation of the public housing projects of the SAR Government. I am going to elaborate on the stance of the Government.

First, the fundamental principles for the composition of the HA. The HA is a statutory body responsible for implementing most public housing projects in Hong Kong. As the Government has to be accountable to the general public and the Legislative Council in respect of public housing policies, and implementing public housing projects is an important link in the enforcement of the public housing policies, the Government is responsible for ensuring the smooth operation of the HA.

Mr LEUNG Yiu-chung has compared the composition of the HA to that of the Legislative Council, but I think that he has basically confused the focus of our discussion. In fact, the two bodies are different and they are composed differently, therefore, we cannot lump them together.



The existing appointment system allows the Government to appoint people from different strata to take part in the work of the HA on the basis of the functions and operational needs of the HA and according to the abilities of the people concerned. When the Government appoints members of the HA, in addition to considering the functions and terms of reference of the HA, it will ensure that the candidates concerned can meet the operational requirements of the HA, and that its composition must look after the interests and views of people from different strata of the community. Based on this principle, consideration will be made on factors such as the experience and representativeness of the candidates, their knowledge of housing and related matters, their status and qualifications in their trades or professions, their abilities to assist the HA in enhancing operational efficiency as well as whether the composition is balanced.

Because of these principles, the existing composition of the HA comprising professionals and people concerned about the interests of the community is fairly balanced. In fact, its members include professionals from different fields, academics and social workers, subsidized housing flat owners, members of the Executive Council, Legislative Council, Provisional Urban Council, Provisional Regional Council and Provisional District Boards. These members from different fields provide the HA with various professional knowledge and independent views. Actually, among the 28 non-government members, nine are successfully elected in elections, three are social workers and a few are people who know the grass roots very well. If Mr LEUNG's motion is passed, basically, we cannot flexibly appoint suitable people to implement public housing policies according to the operational requirements of the HA.

According to the existing appointment system of the HA, members are appointed in their personal capacities and they can thus give advice independently. If the procedures of the HA include other factors, making it unnecessarily "political", some necessary programmes (such as the proposal for well-off public housing tenants to pay market rents) disputed by different interest groups will hardly be endorsed by the HA. In other words, the HA will find it difficult to balance the interests of the community and perform its duties to serve the community as a whole.

To sum up, the existing appointment system can ensure that the implementation of the housing programme is geared to the interests of the general public.

Moreover, Mr LEUNG's motion has mentioned the transparency and accountability of the HA. In this regard, I believe Members know that the HA operates in an open manner and is highly transparent. The HA has adopted positive measures to give members opportunities to exchange views with the relevant councils, their chairmen and other bodies as well as consulting the public. There are many advisory committees under the HA to maintain contact with the relevant parties such as their clients, that is, residents. Putting it simply, many channels allow the general public to communicate and even lodge complaints with the HA. The HA is also monitored by the Director of Audit, the Ombudsman, the Independent Commission Against Corruption and the Consumer Council. The Panel on Housing of the Legislative Council will also discuss the proposals and policies of the HA and the HA needs to submit a report together with its accounts to the Legislative Council annually, therefore, the Legislative Council has many chances to scrutinize the work of the HA.

Madam President, given the paramount importance and extensive influence of housing policies, we must take into consideration the views of people from various strata and the overall interests of the community when formulating such policies. The existing appointment arrangements can allow the HA to listen to the views of different fields and its members can then conduct objective, impartial, independent and professional discussions. I deeply believe that the HA will continue to increase its operational transparency and accountability to the public.

Actually, in the past 26 years, the HA has provided more than 50% of Hong Kong people with quality subsidized housing and it has made enormous contribution to society. I am grateful to Mr LEUNG for he has not denied the contribution of the HA in this regard. At present, the HA has provided more than 640 000 public rental flats to people in genuine need, built over 270 000 subsidized flats sold to low and middle income families and continued to improve the living condition of residents, and the Home Ownership Scheme, Option to Rent or Buy Scheme and Home Purchase Loan Scheme are welcomed by the general public. We owe all this to the incumbent and former members of the HA.

So, Madam President, I call upon Honourable Members to oppose the motion moved by Mr LEUNG Yiu-chung. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, you may now reply and you have 30 seconds.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, owing to the time constraint, I will raise two points only.

First, the HA has definitely made progress over the years, but this is only natural as the times change. Social development has in fact made it inevitable for the HA to progress. Therefore, while I have no intention of ruling out HA members' contribution, I must still say their contribution should not be allowed to overshadow the defects of the system itself.

Second, I advocate an enhanced elected element in the HA because I think accountability is of prime importance. Despite the emergence of so many problems, no one from the HD or the HA have ever come forward to assume responsibility. That is why I think accountability is very important, and this is the very principle which I must uphold.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung as printed on the Agenda be passed. Will those in favour please raise their hands?

Mr LEUNG Yiu-chung rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Michael HO, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr Edward HO, Dr Raymond HO, Mr LEE Kai-ming, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG and Mr SZETO Wah voted for the motion.

Mr Gary CHENG, Mr Andrew WONG, Mr Jasper TSANG, Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, five were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, nine were in favour of the motion and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the meeting until 2.30 pm on Wednesday, 10 November 1999.

*Adjourned accordingly at sixteen minutes past Eight o'clock.*

**WRITTEN ANSWER****Translation of written answer by the Director of Administration to Mr LAU Kong-wah's supplementary question to Question 2**

We have consulted the Legal Aid Department (LAD) on this matter. According to information provided by the LAD, those 7 000-odd applications were all lodged by the applicants themselves with no solicitors' firm acting on their behalf. Of these 7 000-odd applications, 43 have been granted legal aid, involving 23 applicants and a total of six groups of judicial proceedings. The lawsuits concerned were instituted by Baker & Company Pam, Clarke and Liu and Lo Wong and Tsui.

**Annex II****WRITTEN ANSWER****Translation of written answer by the Director of Administration to Mr CHAN Kam-lam's supplementary question to Question 2**

We have consulted the Legal Aid Department (LAD) on this matter. According to information provided by the LAD, 43 out of these 7 000-odd applications have been granted legal aid, involving 23 applicants. These 23 applicants were all in Hong Kong when they lodged their applications for legal aid.

**WRITTEN ANSWER****Translation of written answer by the Director of Administration to Mr Gary CHENG's supplementary question to Question 2**

We have consulted the Legal Aid Department (LAD) on this matter. The LAD explained that before granting legal aid, the Department would interview the applicants in order to conduct the asset test and take statements from them. Moreover, apart from those who are issued with emergency certificates, qualified applicants must sign forms in person showing their consent to accept legal aid before legal aid would be granted. As regards applicants who are issued with emergency certificates, their cases all require the LAD to initiate legal proceedings for them immediately, and before these applicants can continue to receive legal aid, they must subsequently complete the set procedures as mentioned above. Thus, the identity of all applicants who are granted legal aid have certainly been thoroughly checked in advance.



**Annex IV****WRITTEN ANSWER****Written answer by the Secretary for Housing to Dr TANG Siu-tong's supplementary question to Question 4**

Although buildings of the Housing Authority are exempt from the provisions of the Buildings Ordinance, it has been the usual practice of the Housing Authority to submit building plans to the Buildings Department for comment and advice on the interpretation and application of the Buildings Ordinance, regulations, codes of practice and so on.

In the past three years, the Housing Authority has sought advice from the Buildings Department on 70 housing projects.

**Annex V****ELECTRICITY (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Economic Services

<u>Clause</u>	<u>Amendment Proposed</u>
2(b)	By deleting "owned by electricity suppliers".
3(b)	By deleting the proposed definition of "electricity supply line" and substituting -

"electric line" (輸電線) means -

- (a) a conductor used for the purpose of conveying, transmitting or distributing electricity and any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting such conductor, or any part of it;
- (b) any apparatus connected with such conductor or other thing mentioned in paragraph (a) for the purpose of conveying, transmitting or distributing electricity,

and in paragraph (a), reference to a conductor used for the purpose of conveying, transmitting or distributing electricity includes reference to a wire or to any other means used for that purpose;

ClauseAmendment Proposed

"electricity supply line" (供電電纜) means an electric line, or any cable used in conjunction with such a line for the purpose of transmitting control signals, which is owned by an electricity supplier;".

- 4
- (a) In paragraph (a), in the proposed section 59(1)(ia), by deleting "owned by electricity suppliers are performed without risk of" and substituting "are performed in a manner that minimizes causing an".
- (b) In paragraph (c), in the proposed section 59(8), by adding "shall be subject to the approval of the Legislative Council and" after "subsection (1)(ia)".

New By adding -

### **"Consequential Amendments**

#### **Electricity Supply Regulations**

##### **5. Interpretation**

Regulation 1(1) of the Electricity Supply Regulations (Cap. 406 sub. leg.) is amended by repealing the definition of "electric line".

#### **Electricity Supply (Special Areas) Regulations**

##### **6. Interpretation**

Regulation 2 of the Electricity Supply (Special Areas) Regulations (Cap. 406 sub. leg.) is amended by repealing the definition of "electric line".

## ELECTRICITY (AMENDMENT) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by Ir Dr the Honourable Raymond HO Chung-tai, JP

ClauseAmendment Proposed

- 4(c) In the proposed section 59(8)(f), by deleting "or a term of imprisonment not exceeding 12 months or both such fine and imprisonment".

## Annex VI

## SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1999

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic Services

- | <u>Clause</u> | <u>Amendment Proposed</u>   |
|---------------|---|
| 1             | By deleting the clause and substituting -<br><br><b>"1. Short title and commencement</b><br><br>(1) This Ordinance may be cited as the Shipping and Port Control (Amendment) Ordinance 1999.<br><br>(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Economic Services by notice in the Gazette." |
| 2             | By deleting "and regulation" and substituting "the regulation".   |
| 3(b)          | By adding "使用" after "《".   |
| 4             | (a) In the heading, by adding "使用" after "《".<br>(b) In paragraph (a), by adding "使用" after "《".<br>(c) In paragraph (b)(i), by adding "使用" after "《".  |
| 7(a)          | By adding -<br><br>"(iii) by repealing "吊杆" and substituting "吊桿";".  |

<u>Clause</u>	<u>Amendment Proposed</u>
15	In the proposed section 44A(2), by deleting "《守則》" and substituting "工作守則".
New	By adding -

### **"Consequential Amendments**

#### **Merchant Shipping (Local Vessels) Ordinance**

##### **17. Interpretation**

Section 2 of the Merchant Shipping (Local Vessels) Ordinance (43 of 1999) is amended -

- (a) in the definition of "cargo", by adding ", container, pallet, material and solid ballast" after "goods";
- (b) in the definition of "lifting appliance" -
  - (i) by adding "excavator, pile driver, pile extractor," after "sheer legs,";
  - (ii) by repealing "cargo handling" and substituting "works";
- (c) in the definition of "lifting gear", by repealing "cargo handling" and substituting "works";
- (d) by adding -
  - "material" (物料) includes construction material, waste material and debris;"

ClauseAmendment Proposed**18. Part heading substituted**

The heading to Part VIII is repealed and substituted by "WORKS".

**19. Interpretation**

Section 37 is amended -

- (a) in the definition of "machinery, equipment or appliance", by adding -

"(d) marine construction, means any machinery, equipment or appliance provided or used for that purpose;"

- (b) in the definition of "person in charge of works" -

- (i) in paragraph (a) -

(A) by repealing "on or to" and substituting "on, to or by means of";

(B) by repealing "or" at the end;

- (ii) in paragraph (b), by adding "or" at the end;

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(iii) by adding -

"(c) any other person having for the time being in command or charge of any works being carried out on, to or by means of a local vessel;"

(c) in the definition of "works" -

(i) in paragraph (b), by repealing "or";

(ii) in paragraph (c), by repealing the full stop and substituting "; or";

(iii) by adding -

"(d) marine construction.";

(d) by adding -

"approved code" (《守則》) means a code of practice issued under section 45A;

"crane" (起重機) means any appliance equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in



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the operation of the  
appliance; but does not  
include -

- (a) a hoist block  
running on a  
fixed rail or  
wire;
- (b) a stacker or  
conveyer  
whereby a load is  
moved by means  
of a belt or  
platform; or
- (c) an earth or  
mineral moving  
or excavating  
appliance not  
fitted with a  
grab;

"marine construction" (海上建造工  
程) means any construction or  
reclamation works, including  
dredging, drilling, pipe  
laying, buoy laying, cable  
laying and caisson  
construction, in which local  
vessels are used;".

ClauseAmendment Proposed**20. Powers of Director and inspectors**

Section 40(3) is amended by repealing "level 3" and substituting "level 4".

**21. Restriction on carrying out repairs or breaking up of local vessels**

Section 41 is amended -

(a) in subsection (1), by repealing "subsection (2)" and substituting "subsections (1A) and (2)";

(b) by adding -

"(1A) Subsection (1) does not apply to any local vessels of 50 metres or less in length unless the Director gives written notification to the person in charge of works that subsection (1) applies to that vessel.";

(c) in subsection (3), by repealing "level 5" and substituting "level 6".

**22. Safe atmosphere**

Section 42(2) is amended by repealing "level 4" and substituting "level 5".

ClauseAmendment Proposed**23. Directions regarding repairs or breaking up of local vessels**

Section 43(2) is amended -

- (a) by repealing "level 3" and substituting "level 4";
- (b) by repealing "\$1,000" and substituting "\$2,000".

**24. Prohibition against use of dangerous equipment, etc.**

Section 44(3) is amended -

- (a) in paragraph (a), by repealing "level 4" and substituting "level 5";
- (b) in paragraph (b) -
  - (i) by repealing "level 3" and substituting "level 4";
  - (ii) by repealing "\$1,000" and substituting "\$2,000".

**25. Prohibition against carrying out works in dangerous conditions**

Section 45(3) is amended -

- (a) in paragraph (a), by repealing "level 4" and substituting "level 5";

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- (b) in paragraph (b) -
  - (i) by repealing "level 3" and substituting "level 4";
  - (ii) by repealing "\$1,000" and substituting "\$2,000".

**26. Section added**

The following is added -

**"45A. Code of practice**

(1) For the purpose of providing practical guidance in respect of any one or more of the requirements of this Part or of regulations made under this Ordinance, the Director may issue such codes of practice (whether prepared by the Director or not) as the Director considers appropriate.

(2) The Director may amend or revoke a code of practice issued by him under subsection (1).

(3) Where the Director exercises a power under subsection (1) or (2), he shall as soon as may be reasonably practicable publish notice thereof in the Gazette and the notice shall be in such form as the Director considers appropriate.

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(4) A failure by any person to observe a provision of an approved code shall not of itself cause him to incur any criminal liability, but where -

(a) in any criminal proceedings the defendant is alleged to have committed an offence either -

(i) by reason of a contravention of or a failure to comply with, whether by act or omission, this Ordinance or regulations under this Ordinance; or

(ii) by reason of a failure to discharge or perform a duty imposed by this Ordinance or such regulations; and

(b) the matter to which the alleged contravention or failure relates is one to which, in the opinion of the court, an approved code relates,

then subsection (5) shall apply as regards to the proceedings.

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(5) In any criminal proceedings to which this subsection applies, the following, namely -

- (a) compliance with a provision of an approved code found by the court to be relevant to a matter to which a contravention or failure alleged in the proceedings relates;
- (b) a contravention of or a failure to comply with, whether by act or omission, any such provision so found,

may be relied on by any party to the proceedings as tending to establish or to negative any liability which is in question in the proceedings.

(6) In any criminal proceedings, any document which purports to be a copy of a particular approved code shall, in the absence of evidence to the contrary, be regarded by the court as being a true copy of that code."

**27. Regulations - general**

Section 89(1) is amended -

- (a) by repealing paragraph (zh) and substituting -

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"(zh) the control of works, the control of salvaging of vessels, the control and use of lifting appliances and lifting gear, the safety and protection against accidents of persons employed in such works or operations, the provision of safe workplaces on local vessels, the operation, use and maintenance of hatches and hatch coverings on vessels in connection with works, and regulations made for the purpose of this paragraph may empower the Director to

-

- (i) make exemptions from the application of the regulations where he is satisfied that the regulations have been substantially complied with or where compliance therewith is unnecessary having regard to the circumstances;

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- (ii) approve any person to provide a safety training course and issue certificates to any person who attends the course;"
- (b) by repealing paragraph (zn)."