

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 4 July 2012

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.M., G.B.S., J.P.

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

THE HONOURABLE LI FUNG-YING, S.B.S., J.P.

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

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

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

THE HONOURABLE CHEUNG HOK-MING, G.B.S., J.P.

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

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

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN, J.P.

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

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

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

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

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBER ABSENT:

THE HONOURABLE CHIM PUI-CHUNG

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

THE HONOURABLE MAK CHAI-KWONG, G.B.S., J.P.
SECRETARY FOR DEVELOPMENT

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

THE HONOURABLE WONG KAM-SING
SECRETARY FOR THE ENVIRONMENT

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, S.B.S., SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

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

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

PRESIDENT (in Cantonese): The meeting shall now start.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Public Health and Municipal Services Ordinance (Public Swimming Pools) (Amendment of Fourteenth Schedule) Order 2012	107/2012
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2012	108/2012

Other Papers

- No. 100 — Hong Kong Trade Development Council Annual Report 2011/12
- No. 101 — The Standing Committee on Legal Education and Training Annual Report 2011
1 January 2011 to 31 December 2011
- No. 102 — Hong Kong Export Credit Insurance Corporation Annual Report 2011-12

- No. 103 — Independent Commission Against Corruption Complaints Committee Annual Report 2011
- No. 104 — Construction Industry Council Annual Report 2011
- No. 105 — Sir David Trench Fund for Recreation Annual Report 2011-2012
- No. 106 — Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2011
- No. 107 — Report of the Public Accounts Committee on Report No. 58 of the Director of Audit on the Results of Value for Money Audits
(July 2012 — P.A.C. Report No. 58)

Report of the Subcommittee on Pesticide Residues in Food Regulation

Report No. 24/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mrs Sophie LEUNG will address the Council on the "Independent Commission Against Corruption Complaints Committee Annual Report 2011".

Independent Commission Against Corruption Complaints Committee Annual Report 2011

MRS SOPHIE LEUNG (in Cantonese): President, as a member of the Independent Commission Against Corruption Complaints Committee, I hereby table the Independent Commission Against Corruption Complaints Committee Annual Report 2011 on behalf of the Committee.

This is the seventeenth Annual Report published by the Committee which provides a summary of the work of the Committee for the year 2011. The Committee's major responsibility is to monitor the handling by the Independent Commission Against Corruption (ICAC) of non-criminal complaints lodged by anyone against the ICAC and its officers, and exercise independent judgment. Moreover, the Committee will review the ICAC's working procedures and make recommendations for improvement where it considers appropriate. To enhance public understanding of the ICAC's complaint handling mechanism, this report also explains in detail the function and mode of operation of the Committee.

In 2011, the Committee held three meetings to consider papers and investigation reports on 30 complaints involving 70 allegations. In respect of the three complaints which were found to be substantiated, the relevant ICAC officers, except one who had left the ICAC, were already given appropriate advice. Through examination of the complaints and relevant issues, the Committee has carefully scrutinized the existing ICAC internal procedures, guidelines and work practices to see whether they need to be revised, with a view to making improvements. Arising from the investigation reports considered during the year 2011, the ICAC has reminded its officers to adhere to the relevant internal guidelines in respect of work procedures in order to upkeep the professionalism of the ICAC.

The publication of the Annual Report enables the Committee to brief the public on its work on a regular basis. It can also enhance the accountability and transparency of the Committee's work. Should Members have any comments on the Annual Report, they are welcome to forward their views to the Secretary of the Committee. The support of this Council and members of the public to the work of the Committee is very much appreciated.

Thank you, President.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam will address the Council on the "Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2011".

Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2011

MR CHAN KAM-LAM (in Cantonese): President, as a member of the Advisory Committee on Corruption, I have great honour to brief Members on the "Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2011" tabled in the Council today.

Over the past year, the Independent Commission Against Corruption (ICAC) continued to adopt its three-pronged strategy of law enforcement, prevention and community education to discharge its statutory duty in the fight against corruption, whilst members of the general public continued to express their trust and support.

In 2011, the ICAC received a total of 4 010 corruption complaints, representing an increase of 13% from that in 2010. Of these, the number of pursuable complaints was 3 072, accounting for 77% of the total, or representing an increase of 12% when compared with last year's 2 733 complaints; the proportion of non-anonymous complaints was as high as 74%. Complaints against government departments increased by 6% over 2010 to 1 117. Despite the increase, there was not any sign of a resurgence of syndicated corruption as evidenced in the past. Breaches of the common law offence of Misconduct in Public Office were uncovered within the government sector, indicating that corruption offences have manifested themselves there in cases ranging from straightforward quid pro quo bribery to conflict of interest situations and varying degrees of abuse of office for personal gain. The ICAC will be highly vigilant about such trend of development and will take whatever action is appropriate to prevent it from becoming widespread. Complaints against public bodies remained stable at 229, representing a slight decrease of 1% as compared to 2010.

As for private sector corruption, the number of complaints was up from 2 247 in 2010 to 2 664, accounting for 66% of the total. Amongst them, 1 160 complaints were related to building management, taking up 44% of all private sector complaints; and out of the pursuable cases concerned, more than 60% involved the operation and management of Owners' Corporations, a situation that aroused wide concern. Riding on the strength of robust law enforcement, the ICAC also helped owners and property management companies enhance their capabilities in managing corruption risks through organizing various publicity

and educational activities, as well as providing corruption prevention services and practical guides to building management bodies.

A series of elections was held in 2011 and widespread concerns were focused on complaints of vote-rigging. The ICAC received 608 complaints of violations of the Elections (Corrupt and Illegal Conduct) Ordinance. Of the 553 complaints which were pursuable, 79% of the cases were related to last year's District Council Election alleging hundreds of voters registering with false residential addresses. The ICAC has immediately set up a special taskforce to look into all suspected vote-planting cases and enhanced relevant education and publicity initiatives, with a view to sustaining a clean election culture.

As regards corruption prevention, over the past year, the ICAC completed for government departments, public bodies, government-funded and other organizations a total of 71 assignment reports, including those concerning the governance and internal control of tertiary education institutions, national sports associations and estate agencies, administration of government funding schemes, and so on. Responding to the possible risk of malpractice in the management of obstetric services in private hospitals and the sale of high-demand goods in retail chains, the ICAC reacted promptly by producing a Corruption Prevention Guide and launched an awareness campaign aimed at all stakeholders. The ICAC also provided timely advice to government departments and public bodies during the formulation of new legislations, policies and procedures to ensure that corruption prevention safeguards are built in.

As regards corruption prevention education, the ICAC spared no effort in fostering an integrity culture among teenagers in Hong Kong, particularly tertiary students who are at the threshold of joining the workforce. Last year, with the support of seven universities, the ICAC developed a personal ethics module and incorporated it in the curriculum of their General Education or other related programmes for undergraduates; tertiary students were also encouraged to take ownership of integrity promotion projects on campuses through an "ICAC Ambassador" programme under which 110 new members were recruited in the year. To reach out to teenagers and children, the ICAC utilized a wide range of channels appealing to their interests, such as interactive dramas, dedicated website, discussion forums and electronic story book. Television drama was also regularly employed in galvanizing community support for the ICAC's fight against corruption.

While discharging its anti-corruption duties in Hong Kong, the ICAC also seeks proactive strengthening of international collaboration against corruption. In support of the work of the International Association of Anti-corruption Authorities to promote the implementation of the United Nations Convention Against Corruption, the ICAC hosted in Hong Kong in December last year the first-ever International Anti-Corruption Public Service Announcement Video Competition and Workshop, which was enthusiastically attended by anti-corruption experts and media practitioners from different places and marked a significant milestone in the global anti-corruption drive. Together with anti-corruption counterparts of the Mainland and Macao, the ICAC also organized a conference for managers of small and medium enterprises operating in the Pearl River Delta Region and a regional conference on civil service integrity.

To counter the increasingly complicated and sophisticated corruption activities and better prepare for fast changing times, the ICAC was also in a continuous drive for reform and enhanced professional training for its investigating officers to keep abreast of the times, with a view to seeking continuous enhancement in the ICAC's overall anti-corruption capacity.

President, on behalf of the Commissioner of the ICAC, I wish to take this opportunity of tabling the report to the Council to thank this Council and members of the public for their support to the ICAC and to express my gratitude to members of the various advisory committees of the ICAC for their valuable contribution over the past year. I so submit.

PRESIDENT (in Cantonese): Dr Philip WONG will address the Council on the "Public Accounts Committee Report No. 58".

**Report of the Public Accounts Committee on Report No. 58 of the Director of Audit on the Results of Value for Money Audits
(July 2012 — P.A.C. Report No. 58)**

DR PHILIP WONG (in Cantonese): President, on behalf of the Public Accounts Committee (PAC), I table our Report No. 58. This report corresponds with the

Director of Audit's Report No. 58 on the results of value for money audits (Audit Report).

The PAC has, as in the past, selected for detailed examination only those chapters in the Audit Report which, in our view, contained more serious allegations of irregularities or shortcomings. The report tabled today covers our deliberations on the two chapters selected. I now succinctly report the conclusions and recommendations made by the PAC.

Regarding the chapter on "Unlawful occupation of government land", the Audit Report revealed a number of irregularities, including various cases of unlawful occupation of Government land (land control cases), some of which have existed for an excessively long period of time; the Lands Department having accorded a low priority to land control matters and deployed most of its resources to other duties; the Lands Department's failure to proactively conduct regular inspections targeting at unlawful Government land occupation as it mainly acted in response to complaints and media reports. Besides, the number of prosecutions was too low when compared with the number of land control cases. Furthermore, as the level of penalties has not been revised since 1972 and the fines for convicted cases of such offence were too lenient, law-enforcement actions failed to give an adequate deterrent effect. The Development Bureau and the Lands Department, however, have failed to review the level of penalties during the last term of the Government. In addition, the existing Land Control Information System of the Lands Department is not effective in supporting the Department in managing its land control cases, but the Department has not taken prompt action to revamp the system.

The above situations reflected the persistent failure of the Secretary for Development, the Director of Lands and the officers who assumed the position of the land authority in Hong Kong in the past to effectively discharge their duty to protect Government land from unlawful occupation and the Lands Department's slackness in taking law enforcement actions in land control matters. To these, the PAC expresses serious dissatisfaction and disappointment.

The Secretary for Development pointed out at the public hearing that it was unacceptable for people to first occupy Government land unlawfully and then apply for a short-term tenancy (STT) after being detected. Despite the clear stance of the Secretary for Development, in reality, some people can still take advantage of the STT arrangement to first unlawfully occupy Government land

and then apply for an STT after being detected by the Lands Department, which the PAC finds unacceptable and inexcusable.

Regarding prevention and detection actions, the Audit Report revealed that in the absence of regular inspections of unlawful Government land occupation, many cases were undetected, with some having taken place for a long period of time. Even if the Lands Department had identified such land control cases, it did not always take prompt and effective enforcement action, resulting in some cases remaining unresolved for a long period of time. In this regard, the PAC expresses grave dismay and finds it unacceptable.

As far as enforcement action is concerned, the PAC noted that 70% of the high priority outstanding land control cases as of December 2011 had exceeded the Lands Department's time target. The District Lands Offices (DLOs) did not maintain records of the reasons for such cases not meeting the target, which was at variance with the Lands Department's requirement. Besides, the number of land control cases recommended by the DLOs for prosecution had decreased by 56% from 2008 to 2011, and the actual number of prosecutions had also decreased by 82% during the same period. The PAC expresses astonishment at such situation and finds it unacceptable.

The PAC noted that there were cases in which the staff of the Lands Department were assaulted during the course of inspections or land control actions and cases in which they needed to seek the assistance of the police or District Offices in order to gain access to the unlawfully occupied Government land. The PAC expresses grave concern about such situations.

The Audit Commission (Audit) has studied cases of prolonged unlawful occupation of Government land under different circumstances, and noted that some of such cases had remained undetected for 20 years, which the PAC finds appalling and totally unacceptable.

Regarding the case of Tai Tong Lychee Valley, the PAC commends the decisive acts of the Secretary for Development and the Director of Lands in taking law-enforcement actions to rectify the unlawful land occupation and demolish the unauthorized structures erected on Government land at Tai Tong Lychee Valley in late May this year, despite the obstruction caused by some villagers to the operation.

Let me proceed to the chapter on "Youth Square" now. In the PAC's view, the promotion of youth development is a meaningful policy objective and warrants public funding from the Government for its subsidy, and it is the responsibility of the Home Affairs Bureau to ensure that the public funding allocated to the Youth Square can achieve the intended objective.

The Audit Report revealed a number of inadequacies regarding the Youth Square project, including: there was a significant difference between the pre-tender estimated cost and the tender price of the management and operation contract, the amount of which was \$200 million and \$371 million respectively, and that the Home Affairs Bureau had not reported the matter to the Legislative Council; the Home Affairs Bureau has achieved neither the objective of youth development nor the objective of full-cost recovery in the first two years of the Youth Square's operation, as reflected by the low utilization rate of the Youth Square venues and facilities by youth organizations and the unsatisfactory operating results.

Furthermore, the Home Affairs Bureau has failed to include in the contract specific terms that require the contractor, who was appointed to manage and operate the Youth Square on behalf of the Government, to target at youth organizations in providing services for the Youth Square, resulting in limited incentive on the part of the contractor to make effort to boost youth organizations' usage of the Youth Square, nor does the Home Affairs Bureau have the contractual right to demand the contractor to make improvement in this regard.

The PAC also considers that the maximum level of penalty to be imposed on the contractor is too lenient, whereas the incentive management fee clause is too generous. Such clauses are not conducive to encouraging satisfactory performance of the contractor. The PAC expresses grave concern about the above situations.

On the operation and performance of the Youth Square, the PAC expresses great dissatisfaction and disappointment at the Home Affairs Bureau's over-reliance on the contractor for managing and promoting the Youth Square to the extent that the Home Affairs Bureau has failed to take the lead to timely adjust the rental strategy and work direction in the light of changing circumstances.

The PAC also noted that the Home Affairs Bureau had neither set qualitative and quantitative performance targets to measure the extent of the Youth Square's contribution to youth development, nor taken youth-friendly measures or a focused marketing strategy to attract young entrepreneurs and young people to hire the venues and facilities of the Youth Square. The PAC finds these unacceptable.

On planning and implementation, the PAC is gravely concerned that the Youth Square lacks a focal theme to clearly distinguish it from other youth related facilities and to attract youths to utilize the facilities.

The PAC also expresses grave concern that the Youth Square incurred an operating deficit of \$33.2 million after the first year of full operation, which was significantly larger than the estimated deficit of around \$5 million a year as reported to this Council in March 2005, but the Home Affairs Bureau has not informed this Council of the operation results of the Youth Square.

President, I would like to emphasize that in this report, the PAC strongly urges the Secretary for Financial Services and the Treasury to establish a mechanism to require Policy Bureaux and government departments to report to the Finance Committee (FC) or relevant Panels of this Council, as appropriate, in case of significant difference between the estimated cost and the awarded tender price of a project for which the FC's funding approval has been obtained, even if no supplementary provision has to be sought. In fact, the PAC made a similar recommendation in the PAC Report No. 56 in respect of the East Asian Games, and it is hoped that the Administration will put in place such a mechanism as soon as possible.

Furthermore, the PAC noted that the Home Affairs Bureau would conduct a review on the management and operation mode of the Youth Square in 2013. The PAC believes that our views and recommendations will assist the Administration in conducting the review.

President, this is the last time for me to table a PAC report in the Council in the current term. Almost eight years have passed since I took up the chairmanship of the PAC in October 2004. Over these years I have dealt with and tabled 19 PAC reports covering a multitude of issues, some of which were controversial. I am pleased that the PAC's various conclusions and

recommendations have facilitated the Administration in striving to achieve value for money in the delivery of public services.

The PAC has completed its work in the current term, and I would like to register my appreciation for the active participation of and contribution made by members of the PAC. Our gratitude goes, in particular, to the staff of the Legislative Council Secretariat, whose unfailing support has enabled us to finish our job within a tight time frame. I would also like to express our gratitude to Mr Benjamin TANG, who has just left his post as Director of Audit, and staff of the Audit for their continued support to the PAC.

Thank you.

PRESIDENT (in Cantonese): Mr Fred LI will address the Council on the "Report of the Subcommittee on Pesticide Residues in Food Regulation".

Report of the Subcommittee on Pesticide Residues in Food Regulation

MR FRED LI (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Pesticide Residues in Food Regulation, I submit the Report of the Subcommittee on Pesticide Residues in Food Regulation and speak on the report.

The Pesticide Residues in Food Regulation aimed at better protecting public health; facilitating effective regulation of pesticide residues in food; and promoting harmonization between local and international standards.

The Subcommittee has held three meetings with the Administration and received views from organizations. The Subcommittee has examined the provisions of the Regulation in detail. Members are concerned as to how the list of maximum residue limits (MRLs) and extraneous maximum residue limits (EMRLs) is formulated. The Administration explains that the formulation of the list is based primarily on the available standards recommended by the Codex Alimentarius Commission (Codex), supplemented by standards of the Mainland and other major food exporting countries to Hong Kong, including the United

States and Thailand. The Administration has also taken into account the comments received during public consultation conducted in 2011 and included a certain number of suggested limits in the list.

Some members are concerned whether the views received during the public consultation on the draft lists of MRLs and EMRLs have been accepted and about the reasons for those not being accepted.

According to the Administration, around 1 000 suggestions on pesticide residue limits were received during public consultation. Among them, around 600 suggested limits were not accepted mainly due to technical reasons such as the pesticide residue definition being different from the relevant residue definition adopted in Schedule 1, or because the proposed limit could not pass risk assessment.

Members have queried how the list of exempted pesticides specified in Schedule 2 to the Regulation is drawn up. According to the Administration, the list of exempted pesticides is drawn up to facilitate the use of natural pesticides by the trade. In determining whether a pesticide should be included in Schedule 2, the Director of Food and Environmental Hygiene will take into account relevant factors, including whether the use of the pesticide will result in residues occurring in food; whether the residues of the pesticide are identical to or indistinguishable from natural food consumption; and whether the residues of the pesticide have any toxicological significance or will be dangerous or prejudicial to human health. Such a list of exempted pesticides is not available from the Codex. However, in drawing up the list, the Administration has made reference to the lists adopted by major food exporting countries and places to Hong Kong, including the Mainland, the United States and Thailand.

As for the testing services on pesticide residues in food, members notes that if any test result shows the presence of residues of highly toxic pesticides or excessive level of pesticide residues, the Vegetable Marketing Organization (VMO) will immediately advise the wholesaler concerned to stop selling the vegetable in question and issue a warning letter reminding the wholesaler that the supplying farm must adhere to the principle of safe and proper use of pesticides in vegetable production. The VMO will refer suspected cases to the Food and Environmental Hygiene Department for follow-up actions and step up monitoring and testing of vegetables of the wholesaler concerned.

Members have queried about the need for a grace period of about two years prior to the commencement of the Regulation on 1 August 2014. In the Administration's view, the two-year grace period is necessary for relevant stakeholders to prepare for the commencement of the Regulation and to avoid any unintended impact on food supply. During the grace period, the Centre for Food Safety will provide briefings, training and guidelines for different sectors to familiarize them with the Regulation.

President, the Subcommittee has urged the Administration to enhance the publicity of the Regulation during the grace period in order for the stakeholders to better understand the requirements in the Regulation.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Planning on Manpower of Healthcare and Allied Health Staff

1. **DR JOSEPH LEE** (in Cantonese): *President, during the term of the last Government, a number of medical incidents and drug safety problems occurred and the manpower shortage of nurses and allied health staff became more acute. Moreover, quite a number of health policy initiatives (including enhancing primary care services, promoting public-private partnership (PPP) in healthcare and implementing subsidy schemes which embody the "money follows patient" concept) introduced by the last Government are still underway, and how the manpower of healthcare and allied health staff will be affected by the direction of development of such initiatives in the future is of public concern. With the formal inauguration of the Government of the new term, in respect of issues such as the manpower planning of healthcare and allied health staff and their professional development in the future, will the Government inform this Council:*

- (a) *whether the authorities will increase the manpower of nurses and allied health staff, so as to reduce the chance of occurrence of medical incidents; if they will, of the details; if not, the reasons for that;*

- (b) *whether the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development will conduct any review of or make any strategic recommendation (for example, setting a minimum nurse-to-patient ratio) on the manpower planning of nurses and allied health staff; if it will, of the timetable and details; if not, the reasons for that; regarding the professional development of allied health staff, as no legislation is in place at present to regulate the practising qualifications of some of these staff, whether the authorities have drawn up any target or strategic recommendation, so as to complete as early as possible legislating for the regulation of such qualifications; if they have, of the details; if not, the reasons for that; and*
- (c) *regarding the promotion of primary care services and PPP programmes in healthcare, of the latest direction and target of the long-term development set by the authorities; whether they have any plan to enhance the roles of nurses and allied health staff in these two aspects; if they have, of the details; if not, the reasons for that; whether the authorities will consider extending subsidy schemes which embody the "money follows patient" concept, and so on; if they will, of the details and whether the manpower planning of nurses and allied health staff will be affected; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, a healthcare system of high quality and efficiency is the cornerstone of social development. Over the years, Hong Kong has developed a healthcare system that provides quality services for the community. We have made outstanding achievements on healthcare, and healthcare professions have upheld high professional and ethical standards. At the same time, the system is facing many challenges arising from an ageing population, an increasing occurrence of lifestyle-related diseases and the need to keep pace with rapid development in medical technology. In the face of these challenges, we have to improve the existing healthcare system, focusing on the fundamentals including enhancing primary care services, strengthening the public healthcare safety net, promoting the development of healthcare services and PPP so as to balance the roles of public and private sectors in the healthcare system, as well as formulating a

long-term strategy on healthcare manpower planning and professional development, with a view to facilitating the healthy and sustainable development of our healthcare system.

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

- (a) Every medical procedure involves a certain degree of risk. With the innovation and advancement of medical technology, treatment procedures have become more sophisticated, and the risks involved have also increased. The occurrence of medical incidents is attributable to varying causes. The change of a patient's conditions and the efficacy of treatment can also be affected by a number of factors, including the emergence and development of symptoms, the stability or otherwise of a patient's condition, whether the patient is suffering from multiple diseases, as well as the known risks of the treatment procedures, side-effects of drugs and emergence of complications, and so on. It is therefore necessary to conduct detailed analysis before any conclusion can be made about whether a medical incident is caused by known risks, complications, clinical conditions of the patient or human factors.

While we cannot rule out the possibility of medical incidents, we can minimize their occurrence by improving the existing mechanism and staffing arrangement. The Hospital Authority (HA) and the Department of Health (DoH) have always attached great importance to the quality of healthcare services and patient safety. They have established mechanisms and promulgated guidelines for the reporting and handling of medical incidents by public and private hospitals respectively. They also seek to enhance the efficiency of the reporting mechanisms from time to time, investigate each and every serious medical incident carefully and put forth improvement measures, with a view to preventing the recurrence of similar incidents.

Improving clinical governance system is imperative to reducing medical incidents. In view of this, the HA seeks to ensure service standards and continues to improve service quality through implementation of various schemes on hospital accreditation, clinical

audit, monitoring and improving the effectiveness of surgical services, as well as mechanisms for introducing new medical technology and handling drugs, and so on. The HA has also engaged overseas experts to conduct a review on its clinical governance system with reference to international standards. The HA will study and follow up on the improvement recommendations as appropriate upon completion of the review. Meanwhile, we are working on a review of the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance, particularly in respect of the service standards of private hospitals and transparency of the fees they charge, with a view to further improving the service quality of private hospitals and safeguarding patients' right to know.

The HA will recruit additional staff as and when necessary to enhance its service capacity and quality, and to alleviate pressure on staff. The HA plans to recruit an addition of about 290 full-time doctors, 2 000 nurses and 550 allied health professionals in 2012-2013.

- (b) Based on the outcome of the Second Stage Public Consultation on Healthcare Reform, the Government has set up a high-level steering committee chaired by the Secretary for Food and Health to conduct a strategic review on healthcare manpower planning and professional development in Hong Kong. The review covers healthcare professionals from 13 professions which are subject to statutory regulation, including medical practitioners, nurses and allied health practitioners covered under the Supplementary Medical Professions Ordinance. The Steering Committee will assess manpower needs in the various healthcare professions and put forward recommendations on how to cope with anticipated demand for healthcare manpower, strengthen professional training and facilitate professional development having regard to the findings of the strategic review, with a view to ensuring the healthy and sustainable development of Hong Kong's healthcare system.

Given the complexity and diversity of the issues involved in the review, and as the healthcare industry engages a considerable number of personnel coming from a wide range of disciplines, for

the purpose of the present review we will focus on the 13 healthcare professions which are subject to statutory regulation. As for disciplines currently not subject to statutory regulation, the views on future development of the relevant professions can be suitably reflected through the relevant consultative sub-group formed under the Steering Committee. The review is in progress and expected to be completed by 2013.

- (c) To promote primary care services, the Government has formulated the overall strategy for primary care development in Hong Kong and been implementing the strategy in three major areas through a step-by-step approach, including developing primary care reference frameworks for different chronic diseases and age groups, setting up a Primary Care Directory, and drawing up feasible service delivery models including community health centres and networks. In addition, we have rolled out a series of chronic disease management programmes through the HA. This includes the provision of various healthcare services by multi-disciplinary teams of healthcare professionals, such as the provision of health risk assessments and follow-up care for patients with diabetes mellitus and hypertension by nurses and allied health professionals in General Out-patient Clinics, and targeted treatment services for high-risk chronic patients by multi-disciplinary teams comprising nurses, physiotherapists, occupational therapists and pharmacists, with a view to providing the most comprehensive and appropriate primary care services.

We also hope to enhance primary care services through the implementation of various pilot projects, such as the Elderly Health Care Voucher Pilot Scheme (the EHCV Scheme) and the Pilot Project on Outreach Primary Dental Care Services for the Elderly. The EHCV Scheme is one of the subsidy schemes where we put the "money follows patient" concept to test. It enables elders aged 70 or above to choose primary care services from the private sector. Since the implementation of the EHCV Scheme in 2009, the annual voucher amount of each eligible elderly person has been increased to \$500, which can be used for services provided by western medical practitioners, Chinese medicine practitioners, dentists, nurses, chiropractors and allied health professionals including optometrists,

occupational therapists and physiotherapists. As for the way forward of the EHCV Scheme, we will continue to listen to the views of the community and actively examine the feasibility of further fine-tuning other details of the Scheme.

Apart from enhancing primary care services, promoting PPP in hospital services is also an important attempt in improving the healthcare system. To this end, the Government has implemented a number of pilot PPP projects through the HA, including subsidizing eligible patients to receive cataract surgeries, haemodialysis services and radiological imaging services for designated cancers in the private sector. The HA will consolidate the experience gained from the implementation of these pilot projects and map out their way forward, and make recommendations on how to improve the design and arrangements of future PPP initiatives. Looking ahead, we will continue to make good use of the resources of the private healthcare market and ease the pressure on the public healthcare system through PPP collaboration.

When delivering healthcare services, we will closely monitor the manpower situation of various healthcare professions and respond accordingly in resource allocation, manpower training and planning so as to facilitate the sustainable development of our healthcare system.

DR JOSEPH LEE (in Cantonese): *President, in part (b) of my main question, I have unequivocally asked the Secretary whether any target or strategic recommendation has been drawn up to regulate seven to eight types of allied health staff whose practising qualifications are yet to be regulated, but the Secretary has not, in part (b) of his main reply, replied to my question.*

I wish to ask the Secretary through the President whether the Secretary has any intention to introduce legislation within his tenure of office to regulate the practising qualifications of these seven to eight types of professional allied health staff?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, with regards to healthcare professionals whose practising qualifications have not yet subject to statutory regulation, we have not drawn up any specific plans to regulate them by way of legislation, because we have to look into factors such as the interaction between these professionals and patients, the risk of the service being provided, and the number of people involved. We also have to take into consideration whether they generally serve the private sector or the public sector. On the basis of these factors, we will consider the need of regulating different healthcare professions. As a matter of fact, we do not have any plans for the time being, but I believe we will, through the strategic review on healthcare manpower mentioned just now, keep on receiving views from all parties on the extent of regulating different healthcare professions, and due consideration will be given.

MS LI FUNG-YING (in Cantonese): *President, the Secretary has mentioned in part (a) of the main reply that the HA has been improving service quality through the implementation of various schemes on hospital accreditation, clinical audit, monitoring and improving the effectiveness of services.*

However, Secretary, many healthcare personnel have felt the tight manpower pressure and the stressful workload, but you keep on asking them to take up these paper works, which will not help in reducing the chance of occurrence of medical incidents, but will even add burden to their heavy workload. Does the Secretary concur with this comment? What measures can be put in place to improve the situation?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I have also taken notice of the situation mentioned by Ms LI Fung-ying, and during this period of time, I have also received similar questions raised by our front-line staff.

We should note that various healthcare services, in particular the specialist healthcare service in hospital, are indeed very complicated in the wake of the rapid development in medical technology. In carrying out new and complicated medical procedures in hospital, there are indeed a lot of risks involved. Therefore, a clinical governance system, as I mentioned just now, is of great

importance. Not only Hong Kong, other advanced overseas countries also rely heavily on the clinical governance system. What I mean is that in clinical departments, as clinical supervisors and their main management teams are professionally well acquainted with the service they provide, thus it is very important to enhance the governance of the management team to conduct the necessary audit and quality control of the service provided by each healthcare profession. Meanwhile, I also agree that there are different work procedures in a hospital, and strictly speaking, asking healthcare personnel to take up tasks that are not directly related to clinical healthcare work will certainly increase their work pressure. Therefore, I am very concerned about striking a right balance between these two important tasks. I promise Members that I will seriously review with the HA to see if we can minimize the time spent by clinical healthcare personnel on non-clinical work in the course of providing service, so as to ensure that most of their efforts and time can be spent on providing clinical service.

MR CHAN HAK-KAN (in Cantonese): *President, as the Secretary has said just now, with an ageing population, the number of chronic patient is on the increase. When faced with the problem of shortage of healthcare manpower, the only standard answer provided by the last Government was to enhance the training and nurture more healthcare personnel.*

May I ask the new Secretary, with a new mindset, what new measures will be taken to solve this old problem? If no new measures will be taken, will the Government still rely on the existing Steering Committee with an old mindset and old measures to solve an unsolvable problem?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I thank Mr CHAN for his supplementary question. In fact, the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development I mentioned just now is not an old mechanism. The review conducted this time is very serious and involves a high level. We will assess the overall manpower need of individual grades after considering the views of professional staff and those of stakeholders in society at large. Furthermore, during the review process, we will address the need to maintain the current service level and to incessantly improve the existing healthcare service standard, as well as introduce

new services in various aspects, both in the public sector and in the private sector. After considering the service requirements in all aspects, we will have an idea about the overall manpower requirement, as well as the need for manpower training and development. I can tell Members that this is a very complicated issue, but we are not addressing this issue with old measures, we will conduct a very comprehensive review.

MR PAUL TSE (in Cantonese): *President, I support the scheme which embodies the "money follows patient" concept, even though the \$500 subsidy is too meagre. President, it has been almost three years since the scheme has been implemented, and as we all know, for vouchers, discount coupons or the so-called prepaid meal coupons, very often I will forget about them, and eventually they will be wasted.*

Secretary, I wish to know whether the authorities have reviewed how many healthcare vouchers have been wasted under the scheme? In order to address this problem, can their usage be enhanced? For example, can they be transferrable, cumulative or be used as a means of prepayment, so as to provide timely help, thereby minimizing the wastage of healthcare vouchers?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I wish to thank Mr TSE for raising the supplementary question. We have also noticed the utilization rate of EHCV. The utilization rate is about 60% or so, of course, I am not saying that the rate is absolutely ideal, but it is not very low. As to how we should improve the utilization rate of EHCV, whether it can be achieved by means of the information system or enhanced publicity, I will listen to views put forward by Members, healthcare workers and the public, and then I will keep on seeking measures to improve the EHCV Scheme, including the improvement of its utilization rate.

DR JOSEPH LEE (in Cantonese): *President, in part (c) of my main question, I asked about the promotion of primary care services, and I note that the Secretary has mentioned a lot of therapeutic efforts, including services provided by the HA and the private sector, but he has not mentioned the health promotion and disease prevention initiatives of the DoH. May I ask the Secretary, in mentioning primary care services, why he has omitted the DoH?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, regarding the supplementary question raised by Dr LEE, when we talk about primary care services, generally speaking, we are referring to healthcare diagnostic services provided for maintaining the basic health of the public. Of course, preventive services are equally important, and such services have all along been provided by the Central Health Education Unit of the DoH. However, we are also aware that government efforts are not enough, therefore in respect of disease prevention and public education, we have all along co-operated with various voluntary organizations, with a view to enhancing public awareness of health education and disease prevention. In this respect, I will listen to views put forward by all people, and I also believe Honourable Members will agree that prevention is the best cure. Therefore, in terms of preventive measures, we will explore ways to enhance co-operation with various voluntary organizations by implementing preventive, early stage diagnosis and screening works in the community.

PRESIDENT (in Cantonese): Second question.

Statutory Holidays in Hong Kong

2. **MR LEE CHEUK-YAN** (in Cantonese): *The Government sought public view in 1981 regarding the disparity between the number of general holidays and that of statutory holidays and proposed in 1982 to increase the number of statutory holidays by one additional day, as a first step, with effect from 1983. Since then, the executive authorities have not taken the initiative to introduce any legislative proposal to increase the number of statutory holidays. On the other hand, under the Employment Ordinance (EO), an employee is entitled to seven to 14 days' annual leave with pay which in comparison with the four weeks' annual leave with pay enjoyed by employees in most advanced economies is obviously a lot less. In this connection, will the Government inform this Council whether:*

- (a) *it will amend the EO during the term of office of the fourth term Chief Executive to include all general holidays other than Sundays as statutory holidays; if it will, of the details and the legislative timetable; if not, the reasons for that; and*

- (b) *it will amend the EO during the term of office of the fourth term Chief Executive to increase the number of days of annual leave with pay to which an employee is entitled; if it will, of the details and the legislative timetable; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to Mr LEE Cheuk-yan's question is as follows:

At present, employees are entitled under the EO to 12 days of statutory holidays and seven to 14 days of annual leave each year, depending on their length of service. Such stipulation on holidays is a consensus reached by all sectors of society after extensive consultation. The EO is applicable to all employers irrespective of the trade, size and circumstances of individual establishments. The purpose of laying down employees' rights and benefits in the law is to accord basic protection to employees of various trades and occupations. On this basis, employers are free to offer their employees benefits over and above the requirements of the EO, such as granting more holidays or annual leave than that required by law, having regard to their operational needs and individual circumstances, in order to attract and retain talents.

Mr LEE Cheuk-yan indicated that the number of holidays enjoyed by employees in Hong Kong is less than that of certain advanced economies. I should point out that employees' benefits (such as holidays) of any jurisdiction are invariably drawn up having regard to its unique social or economic circumstances. We must take into consideration our local circumstances when formulating our policies on employees' rights and benefits. Indeed, overall speaking, the number of statutory holidays and paid annual leave enjoyed by employees in Hong Kong under the EO is no less favourable than that of our neighbouring Asian economies. Take an employee who has worked for the same employer for five years as an example, such an employee in Hong Kong is entitled to 12 days of statutory holidays with pay and 10 days of paid annual leave, making up a total of 22 days of holidays. Among the 10 neighbouring places, Hong Kong ranks fifth alongside Singapore and is ahead of Thailand, Mainland China, Macao and the Philippines. For an employee who has worked for the same employer for nine years, such an employee in Hong Kong is entitled to a total of 26 days of holidays, comprising 12 days of statutory holidays with

pay and 14 days of paid annual leave, ranking third together with Malaysia among the neighbouring places.

The stipulation under the EO in relation to statutory holidays and annual leave is a consensus reached after extensive consultation in society. Enhancing the existing holiday benefits under the EO would inevitably impact on employers, especially small and medium sized enterprises which represent 98% of the enterprises in Hong Kong, and families employing some 300 000 foreign domestic helpers. In contemplating the suggestion, we have to consider the matter as a whole including the overall package of holiday benefits provided by law and the need to balance employees' interests and employers' affordability to ensure that the relevant policy is in line with the overall socio-economic development of Hong Kong while being able to maintain our competitiveness.

In view of public concern over the number of statutory holidays enjoyed by employees, we have embarked on a study on the subject. We have commissioned the Census and Statistics Department (C&SD) to collect statistics on the number and distribution, as well as the trades and occupations, of employees taking statutory holidays and general holidays respectively, for the study. The full set of statistics is expected to be available for analysis by the Labour Department by the end of this year.

MR LEE CHEUK-YAN (in Cantonese): *I have 10 000 signatures in hand, representing the request of wage earners for five more days of statutory holidays, so as to be on a par with 17 days of general holidays. The Hong Kong Confederation of Trade Unions has been striving for more statutory holidays for many years. Originally, I thought that a new situation would arise after a new Secretary has assumed office. Unexpectedly, while there is a new governing team, the ways of thinking is old; they do not have new ideas and they are talking nonsense; so, there is no difference at all.*

I would like to ask the Secretary, does the new governing team have any new promises in respect of family-friendly practices? Does it have any new promises in respect of holidays? President, you have read the main reply. Though Hong Kong is affluent, the Secretary dares not compare Hong Kong with advanced economies and he just compares Hong Kong with our poor neighbouring countries. Does he think that it will make us feel proud if we compare Hong Kong with the poor countries?

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

MR LEE CHEUK-YAN (in Cantonese): *Is it a good thing to compare with other countries in terms of inferiority?*

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

MR LEE CHEUK-YAN (in Cantonese): *President, I would like to ask the Secretary, does he have any new ideas concerning family-friendly practices and giving employees more days of holidays so that they can take a breather after hard toil? Why can we not compare Hong Kong with advanced economies but only with poor countries in terms of being mean and exploiting? Why are employees in Hong Kong being treated like dirt? I wish I can hear some new ideas. Does the Secretary have new ideas?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr LEE for his supplementary question. First of all, we certainly have new ideas but they must be supported by data. I have mentioned in my main reply that the Labour Department has commissioned the C&SD to collect statistics on the number of employees in Hong Kong taking general holidays and statutory holidays, so as to make a comprehensive assessment. Once the information is available, analysis will be conducted. I have just said that the data will be available by the end of this year. We can only make policy changes on the basis of data. How can we take actions if we do not have such data? Thus, the first step of data collection is very important, so that we will know the direction in formulating policies.

I wish to say in passing that we are sincere, this is obvious; otherwise, we will not collect the relevant data and tell Members the timetable, so that they will know that we will start analysing the data once they are available.

Second, I would like to clarify that we are not comparing Hong Kong with our poor neighbouring countries. We are comparing Hong Kong with countries like Japan and South Korea, their levels of economic development are similar to

ours. For sure, we are definitely not competing with one another for being the poorest.

Third, Members should not have this misconception on advanced countries. Take the United States as an example, the employees actually only have nine days of general holidays, and the number of days of annual leave with pay is not stipulated in the laws but agreed between employers and employees. The general practice in the United States is, if an employee has worked for five to 10 years in an enterprise, he will be given around two to three weeks' annual leave by his employer, but this is not protected by the law. On the contrary, an employee in Hong Kong has 14 days' annual leave with pay which is protected by the law. Therefore, we cannot directly compare Hong Kong with other countries. Hong Kong has its own socio-economic environment and we are moving forward.

I also want to clarify another point. The Member has stated in his main question that we have not taken the initiative to introduce any legislative proposal to increase the number of statutory holidays after the increase in the number of statutory holidays by one additional day in 1983; this is not correct. After the increase in the number of statutory holidays by one additional day to 11 days in 1983, we added one additional day's holiday on the Labour Day in 1999; so there are 12 days of statutory holidays. In other words, we have moved one step forward in 1999 following the action taken in 1983. We will improve employment rights and benefits from time to time in line with the pace of our economic and social development.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR LEE CHEUK-YAN (in Cantonese): *The Secretary surely has not responded to our signatures. The most important point is that he has not answered why Hong Kong cannot be compared with advanced economies. He has referred to South Korea and Japan in his answer a while ago but Hong Kong is actually inferior to South Korea and Japan. South Korea and Japan are not mentioned in his main reply, which is simply misleading. I have pointed out that he is comparing Hong Kong with poorer countries and that is exactly that he has done;*

yet he has distorted the fact by saying that he is comparing Hong Kong with Japan and South Korea. I think he has not answered my supplementary question.

PRESIDENT (in Cantonese): The Secretary has also mentioned the United States. Does the Secretary have anything to add in relation to the comparison of Hong Kong with Japan and South Korea?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, first of all, I have stated very clearly that we are comparing Hong Kong with 10 neighbouring economies, including Japan, Korea, Malaysia, Singapore and Taiwan. Since the level of economic development of places such as Taiwan, Singapore, South Korea and Japan are very similar to that of Hong Kong, we are not making comparisons with poor countries and Members should not have such a wrong impression. We are comparing Hong Kong with the neighbouring economies.

Second, President, I have just mentioned the United States, which is a better example. The United States is an advanced country but the employees there only have nine days of general holidays while the annual leave with pay has to be agreed between employees and employers, and the Government has not legislated on that. However, there are laws in Hong Kong specifying that an employee who has worked for nine years can have 14 days' annual leave with pay. Evidently, the protection in Hong Kong is clearer than that in the United States.

MR LEE CHEUK-YAN (in Cantonese): *I think he has not answered my question. I am going to submit a petition letter to him.*

PRESIDENT (in Cantonese): Mr LEE, you cannot cross the floor of the Council during a meeting. Mr LEE, please give your letter to a staff. Mr LEE, you have violated the Rules of Procedure, please return to your seat.

According to the Rules of Procedure, a Member cannot cross the floor of the Council during a meeting, would you please abide by the rule.

MS LI FUNG-YING (in Cantonese): *President, the Secretary is amazingly good at tampering with concepts and quoting out of context. How does the Secretary compare Hong Kong with the neighbouring areas? According to him, if employees employed by the same employer have worked for five years, they will have 22 days' annual leave with pay while those who have worked for nine years will have 26 days' annual leave with pay. Honestly speaking, how many employees can work for the same employer for five years or nine years nowadays? Many employees are now employed on contract terms and their employment period is fragmentary.*

Has the Secretary compared Hong Kong with advanced economies in relation to holidays for employees who have only worked for one to two years? Will the Secretary promise that the gap between general holidays and statutory holidays will at least be gradually narrowed in stages, so that the two will eventually align?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, I thank Ms LI Fung-ying for her views and question. I have said explicitly that we definitely are sincere in examining this issue in depth. The Labour Department is now collecting some data. I have just mentioned that we base on data in policy formulation and the available data will be analysed by the end of this year. We have also set a timetable; we will report to the Labour Advisory Board (LAB) after the analysis and we will also brief the Panel on Manpower afterwards. If we do are sincere in examining this issue, we would not have taken the initiative to take the first step to collect the data.*

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

MS LI FUNG-YING (in Cantonese): *President, the Secretary has not answered whether he will promise to narrow the gap in phrases and align the two types of holidays.*

PRESIDENT (in Cantonese): Secretary, the Member's question is about general holidays.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, today is the fourth day of work of the new-term government and there are more than 1 800 days to go; so we definitely have room for improvement in respect of labour rights. But, I wish to emphasize that, first, there must be sufficient data; second, we must balance employees' interests and the affordability of employers. I would like to tell Ms LI that we will not rule out this possibility.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary has said in reply to Mr LEE Cheuk-yan's main question that employers are free to offer their employees benefits over and above the requirements of the EO in order to attract and retain talents. However, we all know the situation is similar to the Government's encouraging employers to retain talents through the provision of minimum wage, which was unsuccessful and legislation on minimum wage had to be enacted. That is why we are now requesting the Government to legislate. Nevertheless, the Secretary replied that he has commissioned the C&SD to collect some data and he can only provide further information after the analysis of such data.*

Can the Secretary tell us what purpose does it serve to collect the data? If the data reflect that only a small number of employees are offered benefits over and above the requirements of the EO, the Secretary may say, since many employers have already provided favourable conditions, why should we legislate. If the situation is unsatisfactory and many employees are not provided with favourable conditions, the Secretary may say that it is impossible to legislate as many employers disagree and the Government needs to strike a balance in our society. Has the Secretary only used the collection of data as an excuse to decline and refuse to legislate?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to clarify the point just made by Mr LEUNG that we are using the collection of data as an excuse. At present, some employees may enjoy benefits over and above the requirements of the EO, but our survey is not conducted to collect such data. Our objective is very simple, we intend to find out the number

of employees taking statutory holidays and general holidays respectively, so as to find out the difference and assess the overall situation. In fact, many private enterprises provide employees with benefits over and above the requirements of the EO. As we all know, the EO provides basic protection and it can be described as the minimum charge. Employers cannot provide benefits below the requirements of the EO; otherwise, they will violate the law. Nonetheless, many enterprises give employees more days of annual leave than the number of leave days prescribed by the statutory requirements, some give 20 days, 22 days or even as many as three weeks, depending on factors such as the seniority of the employees and the size of the enterprises. This is based on free market operation.

In any case, the basic protection is that an employee shall have 14 days' annual leave and 12 days' statutory holidays, totalling 26 days. Our survey is conducted on this basis to find out the number of employees taking statutory holidays and general holidays respectively, thereby ascertaining the future direction and determining how further improvement can be made. That is the objective of our survey.

MR LEUNG YIU-CHUNG (in Cantonese): *President*

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

MR LEUNG YIU-CHUNG (in Cantonese): *The Secretary has not answered my question.*

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

MR LEUNG YIU-CHUNG (in Cantonese): *I also know that the so-called benefits over and above the requirements of the EO are mainly about statutory holidays and leave with pay but not other benefits.*

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

MR LEUNG YIU-CHUNG (in Cantonese): *The question is, what purpose does it serve to collect the data? Regarding such data, some good-hearted employers will give employees more days of holidays than the statutory requirements, and the Government may say that these employers have provided more favourable benefits. However, if some employers fail to do so, the Secretary may say that the Government will not legislate because it is necessary to strike a balance.*

Hence, I wish to ask the Secretary, after the collection of data what criteria will be adopted by the authorities in determining whether or not legislation should be enacted. How will the authorities analyse those data? Will they finally use the data as an excuse to decline legislating?

PRESIDENT (in Cantonese): Secretary, the Member is asking how the data can be relied upon to determine whether legislation will be enacted or not. Please reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I express my thanks to Mr LEUNG. The data we will collect include the number and distribution of employees, as well as the industries and occupation they are engaged in for comprehensive analysis. As we would like to explore the possibility of aligning these two types of holidays, that is, an increase from 12 days to 17 days, as a kind of benefits to employees, we must consider various factors and make a comprehensive analysis.

As we all know, there is no statutory requirement for employers to give employees general holidays but employers will violate the law if they do not give employees statutory holidays. Statutory holidays and general holidays are clearly two separate issues. While the former is an employee's benefit, the latter is a holiday provided by enterprise. We can only determine the direction of development after we have grasped the relevant data. Yet, as I have just stressed, now that we have taken the first step to conduct a survey, it fully reflects that we are sincere in examining this issue in depth.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary has misunderstood my question.*

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

MR LEUNG YIU-CHUNG (in Cantonese): *I ask him how the numbers can be used to determine whether legislation will be enacted or not.*

PRESIDENT (in Cantonese): Secretary, can you respond as to how the numbers can be used to determine whether legislation will be enacted or not?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have just clearly stated that a policy decision must be made on the basis of figures and a decision cannot be made out of the void. If we are asked how many employees in Hong Kong do not have 17 days of general holiday, we have to say that we have no idea. Members will then ask why changes have to be made if we do not know the answer. For this reason, we must grasp some basic information.

PRESIDENT (in Cantonese): Secretary, the Member wants to know if you would consider it necessary to legislate when a certain number is reached.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I do not have a yardstick but we must be practical and realistic. In the course of policy formulation, we need to make reference to data before making a policy decision. Data collection is the basic first step, which proves that the Government is concerned about this issue and has responded.

PRESIDENT (in Cantonese): In respect of this issue, that is all the Secretary can say today.

MR WONG KWOK-KIN (in Cantonese): *President, there is evidently an unfair situation in our society. While some employees have 12 days of holidays, other employees have 17 days of holidays; there is a difference of five days. It is really unfair to those employees who only have 12 days of holidays.*

I would like to ask the Secretary if the Government has the intention to align these two types of holidays. It should have an objective or a purpose in conducting a survey. If the Government does not have the intention, it will be meaningless to conduct a survey. Will the Government conduct a survey because it wants to align these two types of holidays? Does the Government have such intention?

PRESIDENT (in Cantonese): Ms LI Fung-ying has already asked this question just now. Let me see if the Secretary has anything to add.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr WONG for his question. I may restate our belief that a journey of a thousand miles begins with a single step. This survey is an important first step indicating our concerns about this issue. I cannot hastily tell Members whether we can make a clear decision or not at this stage. We will immediately take actions and Members should be able to see that the Government is concerned about this issue. We will improve labour rights from time to time in line with the pace of socio-economic development in Hong Kong, and this is our consistent position.

MR WONG KWOK-KIN (in Cantonese): *President, my question is clear enough, and I am asking again for the last time if the Government has the intention of aligning the two types of holidays consistent so as to comply with the principle of fairness.*

PRESIDENT (in Cantonese): The Secretary has already given an answer. Secretary, to give Mr WONG Kwok-kin an answer, can you reveal if the Government has the intention to align the two types of holidays?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, just now I have clearly stated that this is a very important first step. We will collect the data and analyse them, and we will then brief and report to the LAB and the Panel on Manpower of the Legislative Council.

MS AUDREY EU (in Cantonese): *The Secretary has repeatedly mentioned that the collection of data demonstrates the Government's sincerity. Mr LEUNG Yiu-chung has asked how the authorities would eventually determine if legislation will be enacted on the basis of the data but the Secretary has not given an answer so far.*

President, I would also like to raise a supplementary question on this point. If we take a look at the Secretary's main reply, we will find that he has said that the Government needs to balance employees' interests and employers' affordability. Giving employees five additional days of holidays will increase the number of days of holidays from 12 to 17, and undoubtedly, this will benefit employees. Therefore, the problem lies in the affordability of employers.

I would like to ask the Secretary how the authorities will analyse the affordability of employers on the basis of the data collected. Can the data enable the authorities to understand whether the companies will close down, suffer losses, and so on if employees are given five additional days of holidays? Can the Secretary explain in detail how the data show the affordability of employers?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Ms EU for her question. How important are the data? After we have collected the data, we will commission the Government Economist to analyse and find out the impacts on the economy. After obtaining such data, we will know for individual industry, such as the catering industry, the number of employees taking statutory holidays but not general holidays. The data will indicate the commitment to be undertaken by employers.

Regarding various industries and trades, while some of them are small and medium enterprises, some are labour-intensive low-wage industries, how will the increase in the number of statutory holidays affect various industries?

Furthermore, if the statutory holidays is increased to 17 days, 300 000 employees of foreign domestic helpers in Hong Kong will also be affected because, to be equal and fair, these helpers should also have five additional days of holidays and they should not be discriminated against.

In light of the basketful of factors mentioned above, we must collect some data instead of just saying that we have the intention to enact legislation. Aligning the two types of holidays must be supported by data and evidence, and it is crucial to consider the impacts on our economy and the affordability of employers. We must protect the rights of employees and make improvements from time to time, and this is the Government's consistent position. Yet, we should balance the interests of various parties in the process. This is our aim.

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

Unauthorized Building Works Involving Chief Executive

3. **MR LEE WING-TAT** (in Cantonese): *President, it has been reported that in the two mansions owned by the Chief Executive in Yue Hei Yuen at Peel Rise of The Peak on Hong Kong Island, a glass frame with an area of about 110 sq ft, a garden trellis and other additional structures had been built, which are all unauthorized building works (UBWs), and the property owner has already arranged to demolish some of those UBWs upon receipt of media enquiries. In this connection, will the Government inform this Council:*

- (a) *whether the authorities know when the aforesaid unauthorized garden trellis and glass frame were built; if they know, of the details; whether the demolition of such UBWs fell within the scope of works under the Minor Works Control System (MWCS); if so, of the details of the regulation of such demolition works (including whether the authorities have received a notice to carry out the demolition works before or after demolition of such UBWs, and whether they have agreed to the demolition works);*

- (b) *whether the authorities had inspected the aforesaid properties in the past with a view to finding out if there were UBWs in the properties concerned and if demolition works had been carried out to remove the structures; of the details and results of the inspections; whether they had ascertained if the property owner had commissioned professionals to check the presence or otherwise of UBWs in his properties and the outcome; and*
- (c) *of the approved plot ratio and maximum permissible gross floor area (GFA) of the properties; the respective areas of the glass frame, garden trellis and other additional structures, and whether the areas of these structures should be included in the GFA of the properties; if so, during the period when these additional structures were erected within the properties, whether the GFA of the properties has exceeded the maximum GFA permissible; if so, whether the authorities will recover from the owner the premium of the additional floor areas and thoroughly investigate if the owner has breached the law by allowing the erection of UBWs in his properties and allowing the plot ratio to exceed the approved ratio; if the property owner has breached the law, how they will follow up the case?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the issue of building safety is high on the Government's agenda, and the handling of unauthorized building works (commonly known as UBWs) is one of the major focuses of the work of the Development Bureau and the Buildings Department (BD) in recent years. On the issue of UBWs, the Government has always put the safety of buildings in the first place, and will take a pragmatic stance to handle the issue through prioritization and categorization. To this end, we have formulated a clear enforcement policy against UBWs; and the BD, which has all along been following the principle of acting in accordance with the law and being impartial to all, handles UBW cases pursuant to the Buildings Ordinance (Cap. 123) (BO) and the prevailing enforcement policy.

In the middle of last year, there were a spate of media reports on UBW cases involving senior government officials and celebrities. In response to the public concern on these cases, the BD has formulated and implemented since then

a procedure for handling such cases. Under this procedure, the BD will accord priority to carry out site inspections for cases reported by members of the public or by the media involving senior government officials and celebrities with the objective of clearing any public concerns as soon as possible. After the site inspection, the BD will take appropriate enforcement action in accordance with the BO and the prevailing enforcement policy against UBWs in an impartial manner. Following the principle of acting in accordance with the law and being impartial to all, the BD will not make any special arrangements when carrying out the enforcement actions, irrespective of the identity of the owner.

On the UBW case relating to the residence of the Chief Executive, the buildings involved are Houses 4 and 5 at No. 4 Peel Rise (registered at the Land Registry as Houses B and A respectively). The occupation permit for the two houses was issued in April 1992. According to the occupation permit, House 4 is a three-storey and House 5 a two-storey family residence for domestic use. Both Houses have open parking space for non-domestic use.

In the afternoon of 20 June 2012, the BD received a media enquiry on a structure erected in the garden of House 5. The BD subsequently learned from a press report on 21 June 2012 that the case involved the then Chief Executive-elect. Accordingly, pursuant to the aforementioned procedure for handling cases involving senior government officials and celebrities, the BD accorded priority to the case and deployed its staff to visit the subject premises to carry out site inspections and to make detailed records of the inspection findings in the morning on that day. In response to the press report on 22 June 2012 concerning a suspected illegal structure erected in the garden of House 4, the BD sent its officers to inspect the premises again in the same morning. With the co-operation of the owner, staff of the BD completed the two inspections smoothly, recorded the UBWs identified and preliminarily checked against the approved building plans.

According to the BD's initial assessment on the two inspections, apart from the structure in the garden of House 5 which was reported by the press on 21 June 2012 and removed before the BD's inspection in the same morning (that is, the glass frame mentioned in the question), the following UBWs were identified in the two houses:

At House 4, a covered trellis that was erected in the garden and reported by the press on 22 June 2012 (that is, the garden trellis mentioned in the question); a structure was erected next to the trellis and a metal gate was erected at the access road near the house.

At House 5, the parking space on ground floor was enclosed and a roof cover was erected; and the location beneath the parking space and at the garden level was altered into a floor space.

Under the prevailing enforcement policy and according to the BD's initial assessment, with the exception of the metal gate erected in the access road near House 4, all remaining UBWs belong to the "actionable" category. Based on the results of the two inspections, the Administration has issued an advisory letter on 22 June 2012, requiring the owner to rectify the concerned UBWs. The Administration also made an announcement on the work of the BD by issuing a press release on the same day in response to media enquiries and public concern.

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

- (a) The BD does not have information on when the trellis and the glass frame were erected. For cases relating to UBWs in general, the BD will not initiate investigation targeted at such issues. The policy and stance all along adopted by the BD in its enforcement work against UBWs is to require the owner to rectify the situation as soon as possible in order to ensure safety.

The removal of the concerned trellis and glass frame are minor works items under the MWCS. The owner may thus choose to follow the simplified requirements of the MWCS in carrying out the removal works, without the need to obtain the BD's prior approval of the relevant building plans and consent to commence works pursuant to section 14(1) of the BO. According to the requirements of the MWCS on the relevant minor works items, the owner has to appoint qualified prescribed registered contractors to carry out the minor works, and submit information on the works and other relevant documents to the BD for record within 14 days from the completion of works. The prescribed registered contractor appointed by the owner submitted the relevant documents to the BD on 29 June 2012;

the BD finished checking the documents and acknowledged the receipt of the same on 3 July 2012.

- (b) According to the BD's record, the Department has never received any reports or enquiries in relation to UBWs on the concerned premises prior to the media enquiry on 20 June 2012. The BD made the first inspection on UBWs in the subject premises on 21 June 2012, and I have also provided a brief report on the result of the BD's inspections on 21 June and 22 June 2012 just now.

The BD does not have information on whether the owner had appointed professionals to inspect the premises.

- (c) In general, the maximum plot ratio and maximum GFA of a development can be subject to the restrictions of the BO, the Town Planning Ordinance (Cap. 131) and/or its relevant statutory plans, and/or the relevant lease conditions.

For the case of the development at No. 4 Peel Rise, based on the BO and the relevant Outline Zoning Plan (OZP), the permissible maximum plot ratio of the site is 0.5. With reference to calculations made using the plot ratio, the site has a maximum attainable GFA of around 1 400 sq m.

According to the results of the BD's inspection and the photographs included in the relevant press reports, the following items amongst the UBWs in Houses 4 and 5 at No. 4 Peel Rise are GFA-accountable:

- the trellis in the garden of House 4, with an area of around 6 sq m;
- the structure near the trellis in House 4, with an area of around 4 sq m;
- the floor space beneath the parking space of House 5, with an area of around 22 sq m; and

- the structure in the garden of House 5 that was removed prior to the BD's inspection on 21 June 2012, with an area of around 13 sq m based on the photographs included in the press report.

The above UBWs have a total area of around 45 sq m.

The enforcement work of the Administration against UBWs is conducted pursuant to the authority under the BO with the primary concern on ensuring building safety, and aims at having the contravention rectified as soon as possible. As such, the issue of land premium is not relevant to the BD's enforcement work.

As regards land lease, the relevant lease for the lot is a 150-year lease from 1888 and it does not contain any conditions on plot ratio or GFA.

MR LEE WING-TAT (in Cantonese): *President, when replying to press enquiries, the Chief Executive, LEUNG Chun-ying at first said that the glass frame at his mansion had existed before he moved in. However, the press then discovered, with the aid of satellite photos, that the glass frame was built after he had moved in.*

Moreover, regarding the basement, being a professional (a surveyor), he went so far as to say he was not aware that the basement was an illegal structure.

President, today, there are again press reports pointing out that Dr KO Wing-man and Mr Gregory SO also have UBWs in their residences that have not been dealt with properly. Although the Administration will not normally, under the current policy, take the initiative to investigate the UBWs of members of the governing team, given that one of the four members investigating Mr LEUNG Chun-ying is found to have UBWs in his residence, thus raising doubts about his professional integrity, may I ask the Secretary, in order to salvage the Government's reputation and integrity, would he consider seeking instructions from the Chief Executive, so as to invite the BD to investigate comprehensively the UBWs in the residences of LEUNG Chun-ying, all Secretaries of Departments and Directors of Bureaux, and then publish a report as soon as possible?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr LEE for his supplementary question. The power of enforcement against UBWs is vested in the Building Authority. The Secretary for Development does not have any power in this regard. Therefore, in dealing with UBW cases, the staff of the BD have all along enforced the BO with professionalism, in the spirit of impartiality and act in accordance with the law.

I must reiterate that as the Secretary for Development, I will not be involved in or interfere with the enforcement work, nor will I give any instruction on individual enforcement actions. I will be kept informed of the overall progress of the case and when necessary, I will, based on the information provided by the BD, a professional department, answer Members' questions in the Legislative Council on behalf of the Government and give an account of how the case has been handled.

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

MR LEE WING-TAT (in Cantonese): *My supplementary question is very simple. I ask the Secretary if he would ask the Chief Executive to take the initiative to invite the Director of Buildings (that is, the Building Authority) to conduct a comprehensive investigation of the residences of the Chief Executive and all accountability officials. This is my supplementary question.*

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

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr LEE for his supplementary question. Concerning this supplementary question, I can relay the Member's idea to the Chief Executive.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the glass frame case of the Chief Executive, LEUNG Chun-ying, has evolved from a problem of UBW into a credibility crisis. In particular, during the election, while knowing that he*

also had UBWs in his residence, LEUNG Chun-ying still attacked Henry TANG's integrity on the issue of UBWs, leading to TANG's complete rout in the election. Certainly, Henry TANG was at fault, but what about LEUNG Chun-ying? After LEUNG Chun-ying had won in the election, it was found that there are six UBWs in his residence. When being queried by the mass media, he kept covering up one lie with another, and after the lies were seen through, he just adopted a stalling tactic until now.

I wonder if LEUNG Chun-ying knows that in the 1 July march, whenever people on stage shouted "LEUNG Chun-ying", other people would respond with "big liar". That was really embarrassing

PRESIDENT (in Cantonese): Mr CHEUNG, please ask your supplementary question.

MR CHEUNG MAN-KWONG (in Cantonese): *may I ask the Government, has LEUNG Chun-ying lied about the issue of UBWs? Is a liar without integrity qualified to be the Chief Executive?*

PRESIDENT (in Cantonese): Rule 25(1)(j) of the Rules of Procedure provides that the contents of questions shall not be about the character or conduct of the Chief Executive. The supplementary question asked by Mr CHEUNG just now has violated this requirement in the Rules of Procedure. Members can raise questions about the Government's policies and measures for dealing with illegal structures or UBWs.

MR CHEUNG MAN-KWONG (in Cantonese): *President, I have actually cited the public's queries in my supplementary question*

PRESIDENT (in Cantonese): After citing the queries, please ask your supplementary question.

MR CHEUNG MAN-KWONG (in Cantonese): *The queries cited by me are facts; they are not my queries. President, if you listen to the recording carefully, I quoted with great caution what the public said at that time. That is not my personal comment.*

PRESIDENT (in Cantonese): Mr CHEUNG, please refer to Rule 25 of the Rules of Procedure. It does not matter if you are citing, Rule 25(1)(j) states clearly that the questions shall not be about the character or conduct of the Chief Executive. Therefore, please consider how you can rephrase your supplementary question.

MR CHEUNG MAN-KWONG (in Cantonese): *President, may I ask if a Chief Executive, who has not told the truth and the whole truth regarding the UBW issue, has the integrity to be the Chief Executive; or is he suitable to be the Chief Executive?*

PRESIDENT (in Cantonese): Mr CHEUNG, your supplementary question still violates the Rules of Procedure. I cannot let you ask this question.

MS MIRIAM LAU (in Cantonese): *President, the Secretary said in his reply just now that the BD was responsible for inspecting these UBWs. However, yesterday the media exposed another UBW in Mr LEUNG's residence, that is, a motorized retractable awning on the rooftop of his residence, and no construction plans had been submitted to the authorities. How can such things happen? Is it due to the BD's negligence, or did it deliberately let Mr LEUNG off? We are not certain about that.*

Furthermore, of the four professionals appointed by Mr LEUNG to inspect the relevant UBWs, one of them also has a serious problem of UBWs in his residence. In view of this, should the Secretary consider proposing or seeking instructions from the Chief Executive to hiring an independent third party which is professional and reliable to conduct a survey of the residences of other principal officials, so as to ensure that there are no UBWs in these properties?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Ms LAU for her supplementary question. In accordance with the BO, inspections and enforcement of legal requirements must be carried out by government officers. Therefore, on this matter, colleagues of the BD should be responsible to carry out the inspections.

MR WONG SING-CHI (in Cantonese): *President, in reply to part (a) of the main question asked by Mr LEE Wing-tat, the Secretary said, "The BD does not have information on when the trellis and the glass frame were erected." Given that several photos were published in Ming Pao last Wednesday (27th) to prove that the trellis had not existed prior to the occupation of the mansion, and was only found after occupancy, may I ask the Secretary, firstly, will they authenticate those photos and secondly, given that the public have doubts about the integrity of the Chief Executive, LEUNG Chun-ying, will the Secretary help the public and the Legislative Council get some information and evidence to prove that Mr LEUNG Chun-ying has lied?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, on the relevant surveys and inspections, generally speaking, the BD would not look into the history. We would carry out site inspections and when illegal structures or UBWs are found, we hope that owners can demolish the UBWs as soon as possible and restore the building to the original state approved in the plan. Therefore, on this issue, the main duty of the colleagues of the BD is to notify the owner concerned to take appropriate actions after the detection of UBWs.

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

MR WONG SING-CHI (in Cantonese): *He is not answering my supplementary question.*

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

MR WONG SING-CHI (in Cantonese): *My supplementary question is: Are the photos published by Ming Pao authentic and is the information stated therein true? Moreover, if the public request the relevant departments to provide evidence to prove that Mr LEUNG Chun-ying has lied, would the departments concerned accede to the request of the public? I am not asking the Administration if it has carried out any investigation; instead I am asking if the relevant departments can, after getting hold of such information, help the public prove that Mr LEUNG Chun-ying has lied.*

PRESIDENT (in Cantonese): Mr WONG, the Rules of Procedure also stipulates that Members cannot request officials to confirm the relevant information.

MR WONG SING-CHI (in Cantonese): *President, I am not requesting him to confirm anything; I am just asking him to provide information to the public for verification.*

PRESIDENT (in Cantonese): Secretary, can you submit the relevant information? Although the Secretary said just now that generally speaking, government departments would not look into the history of UBWs, given the press reports and the concerns voiced by the public, will the Government conduct a search to check the history of the UBWs in question, so as to give a response?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, as I pointed out just now, generally speaking, the BD would not conduct any criminal investigation or historical investigation into UBW cases in which the owners concerned co-operate actively in arranging for the demolition of the UBWs in question. Should the BD decide to conduct a criminal investigation, it would consider the actual circumstances of each case. The background or social status of the owner is not a factor to be considered by the BD when deciding if an investigation should be carried out. I believe that this case has already been handled according to our established procedures and practice.

MR WONG SING-CHI (in Cantonese): *President, he is not answering my supplementary question at all. President, the question put by you just now is very clear. I do not know why the Secretary is unwilling to answer my question no matter what. This is really disappointing.*

PRESIDENT (in Cantonese): Mr WONG, the Secretary has already replied having regard to the government policy.

We have already spent over 22 minutes on this question. However, since I did not allow Mr CHEUNG Man-kwong to ask his supplementary question just now, I will now allow Members to ask one more supplementary question in relation to this oral question.

MS EMILY LAU (in Cantonese): *President, I welcome the Secretary to the Legislative Council.*

President, the Secretary said in the main reply that the department concerned would carry out enforcement actions in an impartial manner and that irrespective of the identity of the owner, no special arrangement would be made. He pointed out that after the press report on 21 June, the BD had deployed its staff to visit Mr LEUNG Chun-ying's premises in the morning of the same day to carry out site inspections. However, no members of the media were at the scene at that time. Yet, when the incident involving Henry TANG came to light, the former Secretary for Development gave advance notice to the media that inspection would be carried out about an hour later. May I ask the Secretary if the Administration is really impartial, or has a distinction been made according to political affinity?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, according to the information I have in hand, I can say that we deal with such matters according to the principle of impartiality. The former Secretary mentioned the UBW incident on York Road on 16 February, that is, in the afternoon four days after the media had first reported on the incident. In response to the enquiries of the media, the former Secretary said that the BD would carry out an inspection some time later on that day. Since that incident had attracted extensive media

coverage and public concern, with members of the media waiting at the scene throughout the day, the Administration had to provide information on the actions to be taken by the BD as soon as possible.

In the present case, after the first media report on 21 June, we had, in response to the enquiries of the media, provided the latest information on the actions taken by the BD. Since the inspection had been carried out earlier in the morning of the same day, the former Secretary told the media about the initial findings of the inspection carried out by the BD. In fact, it would not be possible for the Administration to evade the reporting of the media in any way.

MS EMILY LAU (in Cantonese): *President, the Secretary has coughed several times, so first of all, I wish that he would take good care of himself.*

My supplementary is: Why were the two incidents not handled in the same way? For the UBW cases involving Henry TANG or LEUNG Chun-ying, they both attracted the attention of the media and the Administration had to carry out inspections, so why did the Administration not notify the media so that they can go to LEUNG Chun-ying's resident on The Peak together?

PRESIDENT (in Cantonese): Ms LAU, the Secretary has already explained clearly the difference between these two cases twice.

We have spent more than 25 minutes on this question. Fourth question.

Green Measures Taken by Government of New Term to Improve Energy Efficiency of New Central Government Complex and Legislative Council Complex

4. **MS AUDREY EU** (in Cantonese): *President, according to the Government's reply to the Legislative Council earlier, both the expenditure on electricity and the electricity consumption per square metre have increased by several folds after the Government Headquarters and the Legislative Council were relocated to the present sites. Although the new Central Government Complex (CGC) has vertical greening and roof greening features and plans are*

in place to conduct energy-cum-carbon audits on the new CGC and the Legislative Council Complex in consultation with the Legislative Council Secretariat, electricity consumption still increases by folds. Given that the new-term Chief Executive and the Secretary for the Environment of the new-term Government will be taking office, and as the saying goes, "new people invariably bring new style of work", will the Government inform this Council:

- (a) whether it has plans to review the electricity consumption and energy efficiency of the new CGC and the Legislative Council Complex with a view to minimizing electricity consumption and maximizing energy efficiency as far as possible; if so, of the details; if not, the reasons for that;*
- (b) given that 48% of the electricity consumption in the new CGC arises from air-conditioning, whether the Government has counter-measures in place to drastically reduce the use of air-conditioning in the new CGC; if so, of the details; if not, the reasons for that; and*
- (c) whether the new-term Government has plans to study the feasibility of minimizing the use of air-conditioning in the new CGC Low Block, in which the Office of the Chief Executive is located, so as to set an example of green, low-carbon and energy conserving practices for members of the public?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, the Tamar Development Project is a sustainable development project which has incorporated a variety of environmental-friendly features, for example, energy efficient sea-water cooled chiller plants, green roof, photovoltaic panels, daylight sensors and computerized lighting controls, building façade design with non-reflective low-E (low emissivity) coating insulated glass and sun shading devices, and so on. These green features will reduce the overall building energy consumption. The Project is anticipated to achieve the highest rating, that is, Platinum, under the building environmental assessment method by the BEAM Society.

Despite the fact that a series of green features had already been provided, there is a difference in the total electricity consumption between the old Central Government Offices (CGO) and the new CGO because their sizes, facilities, the number of Bureaux/Offices accommodated as well as the design are different. A number of new facilities such as the auditorium, conference hall and communal conference rooms have also been provided inside the new CGO. Due to their operational and design needs, these new common facilities are provided with higher ceiling heights and larger internal spaces, resulting in higher electricity consumption on air conditioning and lighting systems. In addition, there is a consolidated server centre (the Centre) occupying one whole floor in both the East and West Wings of the new CGO. The Centre houses vast numbers of computing server equipment. Since the Centre has to operate at a relatively lower room temperature round the clock, the electricity consumption of the Centre alone already accounts for about 25% to 30% of the total electricity consumption. On the overall design, in order to provide a wind corridor to the Admiralty office area, the majority of the facilities of the new CGO is east-west oriented, against the old CGO which is primarily north-south oriented. This factor has also increased the loading on the air conditioning system.

Besides, the operating hours of the central air conditioning system has also attributed to the higher electricity consumption. The normal operating hours of the central air-conditioning system for office areas of the old CGO was 0800 to 1900 hours on working weekdays from Monday to Friday. Outside these hours, air conditioning was provided by air-conditioners on a need basis. The central air-conditioning for the new CGO is provided on a zonal basis based on the operating hours of individual Bureaux/Offices, generally from 0700 to 2000 hours on working weekdays From Monday to Friday. Some offices need a longer central air-conditioning period due to operational need, and the electricity consumption on lighting and computer systems also increased correspondingly.

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

- (a) In the construction of the new CGO and the Legislative Council Complex, a computerized building energy management system has been provided for each building to monitor and analyse their energy consumption status. This system operates 24 hours a day to monitor the electricity consumption of the buildings concerned. The Architectural Services Department has assisted the Government

and the Legislative Council Secretariat to analyse the monthly electricity consumption data collected for each building and review the implementation of energy saving measures, for example, rescheduling the operating hours of the lighting, lift and air-conditioning systems at office floors and communal areas. To further reduce electricity consumption, the Administration Wing will also remind users of the new CGO building on office energy saving measures, such as turning off the lighting and computer equipments during non-office hours or while they are away, lower the sun blinds before leaving office and on weekends/holidays so as to limit the sunlight entering the office area, hence reducing the air conditioning load. The Administration will continue to closely monitor the electricity consumption of the new CGO as well as conducting carbon audit for monitoring and improving the situation of green gas emission.

- (b) Air conditioning system normally accounts for 50% of the total building electricity consumption for office buildings in Hong Kong. Apart from adopting measures as mentioned in part (a) above, we will continue to review the operating hours of the air-conditioning system in the office areas and communal facilities of the new CGO, and make adjustments to room temperature and air flow volume as far as practicable for energy saving. We have readjusted the temperature setting in the Centre from 22°C to 23°C.
- (c) The energy saving measures mentioned above are also applicable to the building of the Chief Executive's Office.

MS AUDREY EU (in Cantonese): *President, it is a coincidence that the next oral question will be answered by the new Secretary for the Environment. In the main reply of the next oral question, he highlighted that the Environment Bureau has been encouraging various sectors to maintain air-conditioned room temperature at 25.5°C. President, I guess that you still remember the 25.5°C, right?*

However, when the Chief Secretary responded to my question, she highlighted in part (b) of the main reply that, to achieve energy saving, the

temperature setting has been readjusted from 22°C to 23°C. President, this is really puzzling. It is like the building of unauthorized structures by senior government officials, which are subsequently demolished by the Secretary. While the Environment Bureau called on members of the public to set air-conditioned temperature at 25.5°C, the Government has seemingly done a big favour by readjusting the temperature setting of the CGC from 22°C to 23°C. Noting that the Secretary for the Environment is also present at the meeting, I would like to hear his explanation.

Furthermore, President, what is the most ironic is that despite the introduction of so many environmental-friendly and greening features, which can even be regarded as the paragon of green buildings — the new Secretary for the Environment is an expert in this regard — and the Government has even pointed out in the main reply that the Project is anticipated to be given the top Platinum ranking by the BEAM Society, but as the President may recall, I have mentioned in the main question that electricity consumption has increased by folds. Electricity consumption of the new CGC is five times higher than that of the old CGC and 8.8 times higher than that of the Legislative Council Complex. It is still more than twice of the latter when electricity consumption is calculated on a per square metre basis.

President, may I ask why the authorities still anticipate the CGC to achieve the top Platinum ranking?

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

MS AUDREY EU (in Cantonese): *President, my supplementary question is: Is there anything wrong with our yardstick? I hope that the question can be answered by the new Secretary for the Environment. The BEC was published 10 years ago and you once said that a review should be conducted every three years. Now that you have become the Secretary for Development, do you think that the relevant rules or standards are obsolete and should be expeditiously reviewed? If not, on what basis did the authorities anticipate the new CGC to achieve the Platinum rating despite its electricity consumption is much higher than that of the old CGC and Legislative Council Complex?*

PRESIDENT (in Cantonese): The government representative to reply this oral question is the Chief Secretary for Administration.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): First of all, I must clarify that the readjustment of temperature setting from 22°C to 23°C mentioned in part (b) of the main reply purely refers to the temperature of the consolidated server centre, which requires round-the-clock air-conditioning. Furthermore, the air-conditioning temperature should be comparatively lower due the presence of vast numbers of computer systems.

As for the room temperature of other buildings under the Tamar Development Project, although I have just moved to another office, I noted from the meter that the room temperature of the previous office for the Secretary for Development was even higher than 25.5°C. That is why I always lowered the sun blinds to block the sunlight entering the room. I hope Ms EU will understand that the 23°C mentioned in the main reply does not refer to the temperature setting of all offices of the Tamar Development Project.

As for Ms EU's question on why a Project with such high electricity consumption is still anticipated to achieve the top Platinum rating by the BEAM Society, firstly, I can assure you that this rating is made according to the previous HK-BEAM before it was enhanced. While we were promoting green buildings in the past year or so, an enhanced HK-BEAM Plus was introduced. Furthermore, in order to achieve such a rating, we should not merely look at the design of green building projects — just now I have already spent some time discussing how the CGC met with the design requirements — it is also very important for the projects to sustainably achieve a certain energy efficiency standard in terms of operation. For the Tamar Development Project, we will now focus our attention to improving the CGC's energy efficiency from the perspectives of operation and user behaviour.

MR KAM NAI-WAI (in Cantonese): *President, my colleague has written a few questions to me as follows: "The air-conditioning is too strong in the new Legislative Council Complex. Many colleagues felt so cold in their offices that they have fallen ill. We have relayed our views to the Legislative Council staff time and again but to no avail." We have measured the temperature of the new*

Legislative Council Complex and discovered that it ranges from 21.9°C to 22.8°C. How come the temperature cannot be adjusted upward? According to the Legislative Council staff, owing to the centralized air-conditioning system, the temperature cannot be arbitrarily adjusted.

Chief Secretary, given that the new Legislative Council Complex and the CGC can be seen as one, I believe the overall office operations are roughly the same. In your earlier reply to Ms Audrey EU, you pointed out that the air-conditioning temperature ranges between 22°C and 23°C, which is indeed the suitable temperature for servers. May I ask if the centralized air-conditioning temperature of the CGC is also readjusted to 25.5°C? I want to clarify if the centralized air-conditioning temperature of the Legislative Council Complex and the CGC are both set at 25.5°C? My colleague told me that the air-conditioning system is centralized, and it is therefore impossible for individual units to adjust their room temperature. Which actually is the case?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, according to the information obtained on energy management, the temperature setting of different facilities in the CGC varies.

Earlier, I said that the temperature setting in the consolidated server centre of the CGC has been readjusted from 22°C to 23°C. In the CGC, the temperature setting of all building services installations is 28°C in summer, whereas that of offices and communal areas in summer will depend on the actual situation. And yet, it is our goal to adjust the temperature setting upward to 25.5°C, as Ms Audrey EU has said earlier. For the network distribution rooms, we have even considered raising the temperature setting to 28°C. We must determine the temperature setting by taking into consideration the needs of the facilities and the users.

If Mr KAM, Members or their assistants consider the air-conditioning too cold and readjustment is necessary, I trust that staff of the Legislative Council Commission or Buildings Department will certainly be happy to follow up on the matter.

MRS SOPHIE LEUNG (in Cantonese): *President, my supplementary question is concerned with the latter part of part (a) of the Chief Secretary's main reply, in which she said, "..... conducting carbon audit for monitoring and improving the situation of green gas emission". Will further improvements be made in accordance with the monitoring results, such as finding a better way to reduce carbon emission or greenhouse gas in the light of various building restrictions?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *President, my reply to Mrs Sophie LEUNG's supplementary question is in the positive. That is why in my reply to part (a) of Ms Audrey EU's main question, I said that a review will be conducted not only in the aftermath. A sustainable review of the design has been conducted, to be followed by tests of carbon emission of other facilities. Once we have the results, as I have said earlier, we will strive to exercise energy management and implement the necessary measures.*

MR CHAN HAK-KAN (in Cantonese): *President, as Members may recall, Mr Donald TSANG of the last-term government had launched the "Action Blue Sky" Campaign, under which all civil servants or Members could go to work without their ties. That is why I do not wear a tie today to save some air-conditioning costs.*

May I ask the Chief Secretary if we will use less air-conditioning to cut down on electricity consumption by making reference to other places, like Japan, which promotes light and cool clothing (meaning that men need not wear jackets but just short sleeve shirts and trousers)?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *President, what Mr CHAN said was indeed very important. Earlier, I said that after the commissioning of a new building, the best energy efficiency can only be achieved with proper user behaviour, which certainly includes the attire. I recall that when I attended the opening ceremony of the Zero-Carbon Building with Secretary WONG Kam-sing earlier, there was a dress code for all attendants, whose clothing should not have a CLO value exceeding 0.7.*

The kind of attire to be worn by Members who take part in the solemn and serious debates of the Legislative Council should nonetheless be discussed and agreed by Members. The executive authorities alone should not decide on the kind of attire to be worn by Members who attend the Legislative Council meetings.

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

MR CHAN HAK-KAN (in Cantonese): *I guess I have not put my question clear enough. I asked whether the Chief Secretary will promote the wearing of light clothing within the Civil Service.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, in fact, we have been moving towards light clothing in recent years. Many colleagues who have internal meetings with me do not wear jackets or ties. I thought that Mr CHAN asked me in particular if it is appropriate to put on casual wear to attend meetings at the solemn Legislative Council. Consensus and discussions are necessary.

MR LEUNG YIU-CHUNG (in Cantonese): *President, in the first paragraph of the main reply to Ms Audrey EU's question, the Chief Secretary has taken pride in the Government's design, such as photovoltaic panels and daylight sensors, and anticipated that it can achieve the top Platinum rating by the BEAM Society.*

Yet, unfortunately, in the second paragraph of the main reply, she said that "Due to their operational and design needs, these new common facilities are provided with higher ceiling heights and larger internal spaces, resulting in higher electricity consumption on air conditioning and lighting systems."

May I ask the Chief Secretary whether the Government has estimated or assessed the electricity consumption of designs with various ceiling height, such as conference hall and auditorium? Was the result the same as today? Why would it accept such a design if neither estimation nor assessment has been

made? If no advanced assessment has been made, what are the reasons? Are they not concerned about electricity consumption? Why would such a design be accepted in the end?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, we are certainly very concerned about energy efficiency and understand that global climatic change is an issue of mutual concern. However, for every building, we must also take into consideration the actual operational need. For example, since the server has to support numerous computer systems, we cannot merely pursue energy conservation to the neglect of the operational need.

Regarding Mr LEUNG's question, a number of auditorium, conference halls and communal conference rooms have been provided in the Project for holding conferences or seminars, and they can house a large number of attendants. Given that the design of these facilities has already taken into consideration the actual need, therefore higher ceiling heights and larger internal space have been provided. All in all, we have to strike the best balance between operational needs and energy efficiency.

I also wish to add some information in response to the relevant question. While electricity consumption of the new CGC is inevitably higher than the old CGC, its average electricity consumption is nonetheless lower than other government buildings. If Members are interested, I can share the relevant figures with them after the meeting.

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

MR LEUNG YIU-CHUNG (in Cantonese): Chairman, she has not answered my question at all. She only provides the answer she wants to provide and has not answered my question.

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

MR LEUNG YIU-CHUNG (in Cantonese): *In my supplementary question, I asked whether any assessment on electricity consumption has been conducted when she accepted the relevant design. Was she aware of the high electricity consumption well in advance? If so, is there any way to improve*

PRESIDENT (in Cantonese): You have clearly put your supplementary question.

MR LEUNG YIU-CHUNG (in Cantonese): *..... If not, did she ban the design in consideration of its high energy consumption? On what basis did she accept this design? And, how does its electricity consumption compare with others? She has not answered my supplementary question at all.*

PRESIDENT (in Cantonese): Mr LEUNG, you have put many questions, but you can actually raise one supplementary question.

MR LEUNG YIU-CHUNG (in Cantonese): *President, I will only raise one question*

PRESIDENT (in Cantonese): Do you wish to ask if the Chief Secretary has made any assessment?

MR LEUNG YIU-CHUNG (in Cantonese): *..... Has she assessed how the problem of high energy consumption can be dealt with when approving the design?*

PRESIDENT (in Cantonese): Regarding your question on the basis on which the design was approved, the Chief Secretary has already answered that approval was made on the basis of operational need. As for the part on energy assessment, let me see if the Chief Secretary has anything to add.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I have already answered Mr LEUNG Yiu-chung's question. When we assessed the design of the new CGC, we sought to strike a proper balance between operational need and energy consumption. After considering these two factors, the design was accepted in the end. As the design requires higher ceiling heights and larger internal space, larger energy consumption is therefore required and we were aware of this in the course of assessment. And yet, the design is acceptable in view of the operational need.

MS CYD HO (in Cantonese): *President, although some designs are intended to be energy saving, something went wrong during the construction stage. President, I would like to ask the Chief Secretary to raise her head and look at the rooftop windows. They faced the wrong direction and thus failed to catch natural light, but it was only discovered in the course of construction. May I ask the Government when these windows will be re-installed so that we can cut down on the electricity bill and reduce carbon emission as well?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, after moving into the Tamar Development Project (including the Legislative Council Complex and the CGC) by batches, I am aware that remedial works have been continuously carried out. The Director of the Architectural Services Department has been responding conscientiously to Members' aspirations, and expeditiously carried out the necessary remedial works. However, he told me that there is a practical difficulty, and that is, sometimes workers can only carry out remedial works when the facilities concerned are not being used. In any case, we do treasure Members' views and hope to expeditiously provide a comfortable and environmental-friendly working environment for all Members.

MS CYD HO (in Cantonese): *President, I asked the Chief Secretary "when" but she replied "expeditiously". What is meant by "expeditiously"? Will the windows be properly re-installed during the summer recess?*

PRESIDENT (in Cantonese): You have already raised your follow-up question. Chief Secretary, can you reply on the timing?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, with regard to the remedial works, I do not have the relevant information in hand. Nonetheless, I can provide a reply to Ms HO's question about remedial works after the meeting. (Appendix I)

PRESIDENT (in Cantonese): We have spent almost 23 minutes on this question. Fifth question.

Energy Saving Measures

5. **MR CHAN HAK-KAN** (in Cantonese): *President, quite a number of members of the public and environmental groups have relayed to me that as a result of the continuously rising average temperature due to abnormal local weather conditions in recent years, coupled with the lack of importance attached to green architecture in Hong Kong, members of the public use air-conditioners for long periods of time. On the other hand, temperatures are too low in some public places, such as shopping centres and cinemas, as well as modes of transport, resulting in not just discomfort but also an excessive consumption of energy. In this connection, will the Government inform this Council:*

- (a) *given that greening works, including vertical greening and roof greening, can help lower the room temperature in a building, of the current number of government buildings in which such works have been completed, as well as the electricity consumption reduced; whether the authorities will assume a leading role by giving priority to carrying out such works on a full scale in the government buildings and public housing estates in Hong Kong; whether it will study measures, including the provision of financial assistance or technical support, to assist building owners who intend to carry out such works; if it will, of the details; if not, the reasons for that;*
- (b) *given that the Council for Sustainable Development (SDC) has indicated earlier that the Government has launched the Energy Saving Charter and encourages the business community to sign it, and will conduct energy-cum-carbon audits in a number of public facilities in the second half of this year, of the expected reduction in*

electricity consumption upon the implementation of such measures; how such measures can be implemented on a long-term basis; and

- (c) *given that I have repeatedly requested in my speeches delivered in this Council that the power companies should set out in the tariff bill the customer's electricity consumption and consequential carbon dioxide emission level, and implement the "Carbon Emission Reduction Bonus Point Scheme", under which reduction in electricity consumption by a member of the public can be converted into bonus points for paying water and electricity bills, and so on, whether the Government will consider adopting the proposal as a new measure to promote energy saving; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, electricity generation is a major source of greenhouse gas emissions in Hong Kong, accounting for two thirds of the emissions, while buildings account for about 90% of the electricity consumption. Hence, managing well our demand for electricity consumption has been a practical and effective tool to reduce our emissions. Promoting green buildings and enhancing buildings energy efficiency have always been the most practical part of our work priorities.

In respect of the promotion of green buildings, the Government has been taking the lead. Under a comprehensive target-based green performance framework promulgated in 2009, all new government buildings with construction floor area of more than 10 000 sq m should at least aim to attain the second highest grade or above under the BEAM or BEAM Plus green buildings assessment system, that is, "Gold" rating. According to the relevant information, so far, 13 new government buildings have been registered under BEAM Plus, with two of them awarded the highest grade of "Provisional Platinum". Another 14 government buildings have been awarded "Platinum" or "Gold" rating under BEAM of the old standard. Regarding private sector buildings, since the establishment of the Hong Kong Green Building Council from 2010 up till mid-June 2012, over 170 private sector projects have applied for BEAM Plus assessment, which is a good indicator.

Meanwhile, to beautify the environment and attenuate the heat island effect, the Government has been actively promoting greening, including planting

of trees and shrubs across the territory, and implementing planting works at selected locations of different districts through the implementation of Greening Master Plan. Over the past decade, the Government has planted approximately 18.8 million trees and 82.4 million shrubs. Also, in view of the limited space available for planting in urban areas, we have been promoting appropriately roof greening and vertical greening to improve the urban environment.

Given the concern of Mr CHAN Hak-kan over the use of air-conditioning, I would like to highlight the measures taken by the Government in improving energy efficiency of air-conditioning and promoting energy saving. Air-conditioning now accounts for about 30% of local electricity consumption. Upon commencement of the Buildings Energy Efficiency Ordinance in September this year, all new buildings and existing buildings undergoing major retrofitting works are required to comply with the Building Energy Code (BEC), which specifies the minimum energy standards required of four major types of building services installations, including air-conditioning installations. The commencement of the Ordinance will mark an important milestone of enhancing buildings energy efficiency in Hong Kong. The Government published in the Gazette on 10 February 2012 a new version of the BEC with enhanced energy efficiency standards in order to further tighten the relevant standards for the building services installations. For air-conditioning installations, most of the respective energy efficiency standards have been tightened by more than 10% as compared to the previous standards.

In addition, the Government has been developing the first-of-its-kind District Cooling System (DCS) at the Kai Tak Development area. As compared to traditional air-cooled air-conditioning system and individual water-cooled air-conditioning systems, DCS is 35% and 20% more energy-efficient respectively. This project can help achieve electricity saving of up to 85 million kilowatt-hour, with a corresponding reduction of almost 60 000 tonnes of carbon dioxide emissions per annum.

In respect of public's daily use of air-conditioning, we implemented the Mandatory Energy Efficiency Labelling Scheme to encourage members of the public to choose energy efficient appliances, which of course include air-conditioners. The Environment Bureau has also been encouraging the public to maintain air-conditioned room temperature at 25.5°C. Apart from issuing guidelines to remind government bureaux and departments, we have also been appealing for the support of the private sector such as the catering industry,

business chambers and public transport companies for this initiative. As far as we know, various sectors have responded to the campaign of dressing down at work.

My responses to the three-part question raised by Mr CHAN are as follows:

- (a) Different works departments have been actively considering the incorporation of roof greening and vertical greening features into works projects. From 2001 onwards, where practicable, roof greening has been incorporated in the design of new buildings. Since 2006, the Architectural Services Department has further encouraged departments which manage existing government buildings to incorporate roof greening works into their refurbishment projects, particularly roof refurbishment projects, if the building structure, availability of rooftop space and waterproof design, and so on, so permit. Depending on the actual circumstances, other works departments will also incorporate roof greening at suitable building projects. As of January 2012, there are roof greening in more than 200 government buildings.

As for the private sector, through the Environment Education and Community Action Projects (Minor Works Projects) of the Environment and Conservation Fund, the Government has been encouraging and providing subsidies to non-profit making organizations, such as schools and non-government organizations, to provide for roof greening and vertical greening for demonstration and public education purposes. From 2008 to June 2012, the Fund approved about 140 relevant projects, involving subsidies of about \$60 million.

Moreover, on providing technical assistance, the Government has already been promoting the relevant roof greening and vertical greening technologies through different channels including talks, seminars and exhibitions. Recently, we also organized the "Skyrise Greenery Awards 2012", which has been awarded last month, to promote skyrise greening as an integral part of design projects.

- (b) In respect of reducing electricity consumption of air-conditioning, apart from the measures mentioned above, the Environment Bureau

invited developers and property management companies in June 2012 to sign up to the "Energy Saving Charter". Participating companies have pledged to maintain the average indoor temperature of their some 90 shopping malls between 24°C and 26°C during the summer months of June to September 2012. Generally speaking, air-conditioning is the major factor of energy consumption, and accounts for more than 40% of overall electricity consumption at shopping malls. Raising the indoor temperature by 1°C can help reduce the electricity consumption by the air-conditioning system by around 3%. The scheme would effectively help reduce electricity consumption at shopping malls. However, the actual amount of reduction would depend on a number of factors including the original indoor temperature of the malls. On completion of the scheme, we will consider and map out the way forward having regard to the comments of the participating malls and the general public.

Energy-cum-carbon audits not only can help building users and managers to understand their electricity consumption and carbon footprints, but also improve our work of energy saving. The Government has issued guidelines to require bureaux and departments to regularly carry out carbon audits on all new government buildings completed after 2011 with construction floor area of more than 10 000 sq m, and report the findings in their annual environmental performance reports. Also, existing government buildings with of same construction floor area, that is, more than 10 000 sq m are encouraged to carry out regular carbon audits to review the effectiveness of energy saving efforts. The Environmental Protection Department is now discussing with various departments with a view to carrying out the energy-cum-carbon audits for around 120 public facilities in the coming three years and encouraging them to follow up the results of the audits in a sustainable way.

- (c) The SDC published its report on the public engagement on "Combating Climate Change: Energy Saving and Carbon Emission Reduction in Buildings" in March 2012, putting forward a number of energy-saving recommendations, as what the Member has mentioned, including the provision of more information by the

power companies to their customers through electricity bills. The Government followed up this suggestion with the two companies, which have agreed to provide in the electricity bills from June 2012 onwards past consumption data for individual domestic customers, the average electricity consumption per person per month of all of their domestic customers, and the carbon dioxide emission per unit of electricity consumed. The information would enable customers to better understand their own electricity consumption *vis-à-vis* average consumption, and promote their awareness of energy saving and carbon reduction.

Reducing electricity consumption cuts down electricity bills, and is *per se* an economic incentive. The proposal of "Carbon Emission Reduction Bonus Point Scheme" entails high administration costs and frequent personal activities. While we have reservation over this proposal, we will study in details the recommendations set out in the SDC's report and work jointly with different sectors for building Hong Kong into a low-carbon city.

To combat climate change, we will build on the work of the last Administration and sustain our efforts in greater degrees. With the summer heat just around the corner, we are working with various sectors to promote the campaign of "Energy Saving Begins With Us". This is a tagline, as well as a campaign for action-taking. With publicity and education efforts, as well as joint efforts of the Government and the public, I hope that we will be able to build Hong Kong into a low-carbon city and live out a green living.

MR CHAN HAK-KAN (in Cantonese): *President, the new Secretary is an expert in green architecture who has many insights on the greening of buildings. I believe that if he is willing to make greater efforts in this regard, many greening works can be carried out in government buildings. I have suggested in the main question that financial assistance can be provided to building owners to carry out such works because the technology in this area is still not too popular and the cost is still very high. President, let me cite an example. During a previous visit to the Sha Tin Town Hall with colleagues from the Leisure and Cultural Services Department, I had suggested that roof greening should be carried out for the building. But I was told by the relevant department that maintenance*

cost alone would amount to several hundreds of thousands dollars. It is evident from this example that if the Government does not provide financial assistance to private organizations, they can hardly undertake roof greening works.

I would like to ask the Government or the Secretary whether he can undertake to carry out roof greening or vertical greening works for at least all existing government buildings within his term of office?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Mr CHAN for his supplementary question. I think all Members would strongly support the carrying out of carbon reduction and greening initiatives in Hong Kong. Under the Government's existing policy, non-governmental organizations, such as schools, are encouraged to carry out greening and carbon reduction initiatives through the established Fund. As regards private organizations, our policy has yet to cover the relevant initiatives. I hope Mr CHAN can give me some time so that I can consult my colleagues and study the ways in which the funding scheme can be extended to cover non-profit making organizations and private organizations in order to further promote this aspect of work.

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

MR CHAN HAK-KAN (in Cantonese): *President, my supplementary question is about whether the Government will undertake to carry out greening works for government buildings at least within the Secretary's term of office?*

PRESIDENT (in Cantonese): Secretary, please reply in relation to government buildings.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, in my view, the major principle in this regard is that the Government has to set an example. I think it has the support of Honourable Members as well as the general public. Nonetheless, every building has its own technical limitations.

For instance, regarding the Sha Tin Town Hall mentioned by Mr CHAN, while I am not aware of the details, I can certainly find out more at a later stage. But every building has its own limitations, such as the weight loading of the roof, and so on. Hence, we must take into account the situation as well as the location of individual buildings. As I see it, the most important principle is that the Government hopes to promote such works in different government buildings so as to set an example. I will strive to promote work in this aspect in the hope that different government buildings, particularly larger buildings, can be fitted with viable energy saving facilities as far as possible.

MR LEUNG KWOK-HUNG (in Cantonese): *President, while I know very little about vertical greening or rooftop gardens, I think it is at least possible to use solar energy in government buildings, right? While greening can improve the aesthetic quality of buildings, the introduction of solar energy can help water heating. Sometimes when I wash my face upstairs, I can use warm water because the water pipes have been heated by the sun. Hence, I think the best way forward is to promote the greater use of solar energy in government buildings and switch off all the lights at night. I would like to ask Is he the Secretary?*

What is the Secretary's surname?

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

MR LEUNG KWOK-HUNG (in Cantonese): *I have forgotten the name. What is the Secretary's surname? President, please ask the Secretary what his surname is. I do not want to be impolite.*

PRESIDENT (in Cantonese): He is Secretary WONG. Mr LEUNG, you only need to ask your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *OK. I think vertical greening should be avoided if possible, but I hope he can make the greatest effort to introduce the use of solar energy. Can he give us some promise in this regard,*

and in respect of switching off all non-essential lighting at night as well? We have previously discussed this question in the Council. Non-essential lighting should be switched off, and that is the current practice of the Legislative Council Once, I nearly tripped over because of this.

PRESIDENT (in Cantonese): Mr LEUNG, if you have asked your supplementary question, I would invite the Secretary to reply. You can sit down now.

MR LEUNG KWOK-HUNG (in Cantonese): *Thank you, President. Please ask Secretary WONG this question on my behalf.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Mr LEUNG for his support in environmental protection. Regarding the two questions he raised, first of all, it is particularly energy efficient to use solar energy in Hong Kong, especially solar water heating. Hence, we will promote its use in buildings where appropriate, such as those provided with shower facilities, as the installation of solar water heating system can suitably achieve higher energy efficiency. I will discuss the matter with my colleagues and study the ways to promote the use of solar water heating systems in various government buildings over the territory. I think this initiative will definitely have the support of the community.

Secondly, guidelines have already been stipulated by the Government in managing the use of lighting in buildings. When I visit local districts, I sometimes receive views and questions from some members of the public about the installation of motion sensor switches for lighting in stairway. In this regard, I think there is also scope for refinement in the Government's internal guidelines. I will follow up on the matter with my colleagues.

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

MR LEUNG KWOK-HUNG (in Cantonese): *He has not answered my question. I am talking about switching off the lights in government buildings as far as possible because if lights are switched on, it will waste*

PRESIDENT (in Cantonese): You need not present your theories. Please repeat your supplementary question. Are you asking the Secretary whether the lights in buildings will be switched off?

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, and stop playing with the lights. I forget the name of those lights we see flashing around in the Victoria Harbour. Can the authorities stop flashing those lights?*

PRESIDENT (in Cantonese): Are you referring to the show called "A Symphony of Lights"?

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, President, you are really close to the people's heart. Unlike you, I am outdated.*

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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, as far as I know, there has been widespread discussion in the community on the issue of outdoor lighting. Guidelines have also been issued by the relevant committee in the Government. We will refine the relevant guidelines from various aspects including the question raised by Mr LEUNG in order to minimize unnecessary outdoor lighting installations as far as possible. I will follow up accordingly.

MR LEUNG KWOK-HUNG (in Cantonese): *President, he has not answered my question. Even though he said that discussion have been held by the relevant committee, but as he is the new Secretary, will he take up this initiative? He can answer the question with a "No", or he can answer with a "Yes".*

PRESIDENT (in Cantonese): Mr LEUNG, the Secretary has already replied.

MR LEUNG KWOK-HUNG (in Cantonese): *OK. Thank you, President.*

MR LAU KONG-WAH (in Cantonese): *President, compared with our neighbouring places and countries, Hong Kong offers a special scene in summer, that is, notwithstanding the scorching summer heat outside, students would bring woollen sweaters to schools, the ladies would wear a scarf when entering a shopping mall, and even the gentlemen would bring a coat when they go to a shopping mall. I do not know whether the Secretary has noticed this phenomenon and studied the reasons for it?*

In part (b) of the main reply, the Secretary has indicated that under the "Energy Saving Charter" signed between the Government and developers, 90 shopping malls will maintain their average indoor temperature between 24°C and 26°C during this summer. Although I have not visited any shopping mall myself lately, I can still see people in the streets who would wear a scarf or bring a coat when entering a shopping mall. Can the Secretary make public the list of participating developers and call on members of the public to monitor the situation, in order to enhance the effectiveness of the "Energy Saving Charter"? What is the next step of action to be taken by the Secretary?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, this is a new energy saving initiative with the objective of co-operating with the business sector to address the problem of excessively low air-conditioned indoor temperature. My wife would always bring a woollen sweater when going out. As I see it, this electricity consumption mode adopted previously in Hong Kong is not the most sensible option, and I hope it can be changed. A list of participating shopping malls has already been uploaded onto the website of the Environmental Protection Department. Members can check the information online.

I have also discussed with my colleagues this morning the ways to present the relevant information in a more graphic format in our website, such as by indicating in a map the participating shopping malls in various districts, so that members of the public can have a clear idea which shopping malls have or have

not participated in the Charter to facilitate monitoring. Members of the public are welcomed to browse through such information on the relevant webpage.

MS AUDREY EU (in Cantonese): *President, the Secretary has stressed repeatedly that the Government will set an example. When answering the main question raised by Mr CHAN Hak-kan, he has also said that the Government has been encouraging members of the public to maintain air-conditioned room temperature at 25.5°C, while shopping malls participating in the "Energy Saving Charter" will maintain their air-conditioned room temperature between 24°C and 26°C. However, President, as you will recall, when answering my question just now, the Chief Secretary for Administration has said that the temperature setting of the central air-conditioning system in the new Central Government Complex (CGC) was 22°C originally, and it has now been increased marginally by 1°C to 23°C. I would like to ask the Secretary: If he asks the shopping malls to increase their air-conditioned room temperature, yet the temperature setting of the new CGC is only 22°C to 23°C, how can the Government set an example?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, regarding the temperature setting of 22°C to 23°C just mentioned, it mainly refers to the temperature setting of the data centre, that is, the place for housing the computer server. As the place is used to house computer equipment which has particularly sensitive requirements for room temperatures, the temperature setting is lower. A number of studies have been conducted by the industry recently to examine the reasons why the temperature of server room can be increased as compared with the requirement previously. The finding is that it is mainly due to technological advancement. Having conducted a number of local studies, we have increased the temperature setting from 22°C previously to 23°C, in order to keep abreast of the times, or so to speak. Hence, the temperature setting of 22°C to 23°C just mentioned only refers to the room temperature of some data centres. Room temperature setting for general offices should be 25.5°C, which is also the standard adopted in Hong Kong.

PRESIDENT (in Cantonese): Last oral question. Ms Emily LAU will ask the question on behalf of Mr Albert HO.

1 July March

6. **MS EMILY LAU** (in Cantonese): *President, before the 1 July march this year, the organizer has anticipated that quite a number of members of the public will participate in the march as they are of the view that the Chief Executive of the new term has not undertaken that the Chief Executive Election in 2017 will adopt a low nomination threshold and that all the functional constituency (FC) seats in the Legislative Council will be abolished as soon as possible; and they are also furious over the death of Mainland democracy activist Mr LI Wangyang, and have no confidence in the Government of the new term even before the new-term Chief Executive takes office because of the integrity issue arising from unauthorized building works being discovered in his residence. In this connection, will the Government inform this Council:*

- (a) *whether it will release as soon as possible the Green Paper on Constitutional Development to consult the public on the methods for forming Legislative Council in 2016 and selecting Chief Executive in 2017 and initiate the five-step mechanism on constitutional development, so as to respond to the aspirations of the members of the public participating in the march that Chief Executive and all Legislative Council Members should be elected by universal suffrage, and whether it will undertake that a high nomination threshold for screening potential candidates will not be set for the Chief Executive Election in 2017 and that all Legislative Council FC seats will be abolished as soon as possible; if it will, of the details; if not, the reasons for that;*
- (b) *whether the Government of the new term will respond to and follow up the public concern about the LI Wangyang incident; if it will, of the details; if not, the reasons for that; and*
- (c) *whether it will assess and respond to the other aspirations of the members of the public participating in the march, as so to salvage public confidence in the Government; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): *President, on behalf of the Administration, I give the following*

consolidated reply to the three-part question raised by Ms Emily LAU on behalf of Mr Albert HO:

- (a) The Government of the Hong Kong Special Administrative Region (HKSAR) fully understands the public's aspirations for universal suffrage. The Standing Committee of the National People's Congress adopted a decision (the NPCSC's decision) in December 2007, setting out the timetable for implementing universal suffrage in Hong Kong. Universal suffrage may be implemented for the Chief Executive in 2017, and following that, all Members of the Legislative Council may be returned by universal suffrage in 2020. The NPCSC's decision is solemn and with legal effect.

Regarding the issue of implementing universal suffrage for the Chief Executive in 2017, the NPCSC's decision in December 2007 also made it clear that when universal suffrage for the Chief Executive is implemented in 2017, the nominating committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Basic Law. The nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the HKSAR.

As for the Legislative Council Election to be held in 2016, we will, after extensive consultation, strive to put forth a package which will take forward our democratic development, so as to pave the way for implementing universal suffrage for the Legislative Council in 2020.

The HKSAR Government will initiate the process to conduct extensive consultation with various sectors of the community and the public on the specific arrangements for implementing universal suffrage for the Chief Executive in 2017 and the electoral method for the Legislative Council in 2016 in due course.

- (b) The Administration notes that people from various sectors of the community have expressed concerns about the incident concerning Mr LI Wangyang in different ways recently.

The former Chief Executive shared his views on the incident at the Question and Answer Session in the Legislative Council held on 14 June and made it clear that he had already conveyed the views of the people of Hong Kong to the Central Authorities. Some Hong Kong Deputies to the National People's Congress also indicated that they had conveyed the relevant views to the Central Authorities.

The current-term Chief Executive has also indicated that he would convey to the Central Authorities any issues relating to our country which were of concern to the people of Hong Kong. He will also report the latest situation in Hong Kong, including issues of public concern and the views of the public, when he meets with the state leaders.

- (c) The HKSAR Government has always respected and safeguarded people's rights to take part in processions and their freedom of expression and would listen humbly to the views expressed by the people through different channels and ways. The HKSAR Government will continue to uphold the core values of Hong Kong and protect the freedom and rights enjoyed by Hong Kong people under the Basic Law.

The Chief Executive and his team will take the expectations and the views of various sectors of the community seriously and make an active response, with a view to developing our economy, improving people's livelihood, promoting democracy, and fostering a harmonious society.

MS EMILY LAU (in Cantonese): *President, in part (c) of my question, I asked the Administration whether it would assess and respond to the other aspirations of the members of the public participating in the march. President, as you may be aware, one of the aspirations is about the integrity issue of the Chief Executive.*

President, before the march was actually held, the Time Magazine asked in its front-cover headline, "Can Hong Kong trust this man?" Why did the Administration not respond to this question? As I have already said, the Administration has to salvage public confidence. Regarding the problem of

unauthorized building works, will the Administration give due consideration to thoroughly addressing this problem and inviting the credible former Chief Justice of the Court of Final Appeal, the Honourable Mr Andrew LI, and other independent professionals to form an investigation committee, so as to thoroughly review and report to the public what had happened in the past decade?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, although I was not in the Chamber some time ago, I note through television broadcasting that the Secretary for Development has already responded to a similar question in the Legislative Council, saying that he would relay the views and questions to the Chief Executive. Hence, I do not have any further comments about this.

DR MARGARET NG (in Cantonese): *President, in relation to part (a) of the main reply, can the Secretary explain further what he means by "The HKSAR Government will initiate in due course" the consultation on the elections to be held in 2017 and 2016? President, is the Administration aware that if it does not expeditiously initiate the consultation process on the elections, in particular the Chief Executive Election, it is very unfair to the public as well as those intending to stand for the elections? While the incumbent Chief Executive has made public his intention to stand for the Chief Executive Election again in 2017, he has yet to announce the relevant procedures and the consultation details. He is the only one who knows the details and no others. This is unfair. Hence, President, may I ask the Secretary whether he can explain further the meaning of "in due course"? Which year to be exact?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Dr Margaret NG for her supplementary question. Regarding the meaning of "in due course", let me reply in two fronts.

First of all, it is specified in the second point of the NPCSC's decision that the Chief Executive shall, "(at) an appropriate time prior to the selection of the Chief Executive of the HKSAR by universal suffrage" and with reference to the five-step mechanism adopted by the NPCSC even earlier, take forward this task. In explaining the meaning of "in due course", reference must be made to the NPCSC's decision first.

Second, reference can also be made to the actual timetables of the previous two attempts at handling the constitutional reform package. Taking the elections in 2007 and 2008 as an example, discussions on the proposed package to amend Annexes I and II to the Basic Law were held in this Council roughly two years before the elections and extensive consultation was conducted another one-odd to two years before that. As for the two elections in 2012, the proposed package to amend the relevant articles of Annexes I and II to the Basic Law were submitted to the Legislative Council for scrutiny about two-odd years before the elections, and the consultation exercise was conducted about two years before mid-2010. Hence, based on the previous two rounds of consultation exercises, we should initiate consultation roughly at least four years before the elections.

In other words, we echo with Dr Margaret NG in that the incumbent HKSAR Government should kick start relevant work as soon as possible and brood no delay. However, given the fact that we have just assumed duty for a few days, there is not yet an opportunity to discuss with the Chief Executive and members of the Executive Council on a concrete timetable. Once we have hammered out the timetable, we will report to the Legislative Council as soon as possible.

MR TAM YIU-CHUNG (in Cantonese): *President, recently, the new Chief Executive and his team of accountability officials made district visits to listen to public views, but some organizations questioned whether the visits were arranged selectively. Will the Administration give us more detailed information on the arrangement of districts visits, the reviews conducted and the improvement to be made on district visits in the coming two weeks?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I also participated in the last district visit. As far as I know, the specific arrangements of district visits are hammered out by the Chief Executive Office (CEO) together with the relevant District Office. Take the visit attended by the Financial Secretary and I to Yau Tsim Mong district and Tai Kok Tsui district as an example, the visits were made by two accountability officials together, and the question and answer sessions were co-hosted by the District Council Chairman and the District Officer concerned. Regarding the participants, based on my experience in the question and answer session held in the community centre in Tai Kok Tsui, the centre was open to the public and

anyone interested could participate. About 80% to 90% of the seats were filled and anyone interested could enter and fill the rest of the seats. I do not see any problems.

Second, regarding the arrangement on asking questions, according to my experience, as many participants wished to raise questions or views, only five persons were allowed to raise questions for every round, and consequently, some people might not have a chance to raise questions. Hence, in the internal review held yesterday, we decided that starting from the next district visit, the names of participants who wish to raise questions or express views will be put in a box and lots will be drawn to decide which participants can raise questions. This arrangement will be fairer.

Third, regarding the venue, we borrowed a community centre. Given the hot weather, I believe it would be better to meet the public indoor. However, in the next district visit, consideration can be given to borrowing a larger venue so as to accommodate more participants. It will be desirable if a visit can be arranged, where feasible, to places around the venue before or after the district visit, so that the officials can visit shop owners and residents. Actually, I have also spent some time walking around Tai Kok Tsui before the district visit to get to know the latest development of the district and the commodity prices in the shopping mall. To me, this is a golden opportunity to feel the public sentiment. Members are welcomed to make suggestions to me regarding improvement on district visits.

MR CHEUNG MAN-KWONG (in Cantonese): *Barry CHEUNG, Chairman for the campaign office of the then-Chief Executive candidate LEUNG Chun-ying as well as an incumbent Executive Council member, had once said that the 400 000 people who took to the streets on 1 July proved that LEUNG Chun-ying's advocacy for change in Hong Kong was correct. He has turned the people who took to the streets into an indication of their support to LEUNG Chun-ying's advocacy for change. Does the Administration consider that Barry CHEUNG's remark has distorted public sentiment and inverted right and wrong? The strongest demand of the protesters is that they want LEUNG Chun-ying to step down. Has the Administration listened to the true voice of the people? And how will the Administration respond to the people who have requested LEUNG Chun-ying to step down?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the march which took place in the afternoon of 1 July, the Administration has certainly paid close attention to the many aspirations of the protestors, and undoubtedly some of their aspirations or views stood out more prominent than the others. I have also paid attention to their aspirations of all sorts. As far as my Policy Bureau is concerned, I note that many people have asked for universal suffrage and for this reason they took part in the march. I believe members of the public will continue to express their views to the Administration through processions, protests or other established channels such as the District Council.

We shall seriously respond to the views of the public because we know that they have high expectation of our governance. Very often, we may use different channels to learn about their criticisms of the Government or the inadequacies they find in the Government. I trust that other officials of the new term will, like me, attach great importance to different aspirations, particularly those voiced by people on the afternoon of 1 July, as Mr CHEUNG Man-kwong has just said. I am now in the process of finding out how to actively respond to the aspirations. As for the question on universal suffrage, I have already responded just now.

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

MR CHEUNG MAN-KWONG (in Cantonese): *Yes. He did not answer whether the Government is aware that the strongest demand of the people in the march is to ask LEUNG Chun-ying to step down and what is the response of the Government.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I am aware that the Chief Executive himself is very willing to respond to different questions raised by members of the public. I also note that he has frequently responded to questions raised on different occasions before and after he took office. Moreover, yesterday, he has also indicated his

wish to Members through the Chairman of the House Committee that he will respond to Members' questions within the current legislative term and introduce his policy vision to Members. I believe this will be another appropriate occasion where he can personally respond to the views expressed by Member just now.

MR JAMES TO (in Cantonese): *President, it is stated in part (c) of the main reply that the Chief Executive will take the views of various sectors of the community "seriously and make an active response". Several hundred thousand people took to the streets on 1 July. "Step down, LEUNG Chun-ying" was the slogan chanted by the majority of the protestors. Should the Secretary or the Chief Executive be the one to respond to this demand? What exactly is taking their views "seriously" and making "an active response"?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): *President, I have just said in my reply to Mr CHEUNG Man-kwong that we are aware of the different aspirations voiced by members of the public in the afternoon of 1 July. The aspirations were related to all sorts of issues, such as livelihood issues, press freedom and universal suffrage. Some aspirations stood out more prominent than the others and, as Mr James TO has pointed out, these aspirations centred around the Chief Executive himself. The Government, which operates as a team, will take all their aspirations seriously. We will actively respond to them as long as they are within our ability to do so. As regards aspirations related to the Chief Executive, I believe it is more appropriate to let the Chief Executive respond to them personally.*

MR WONG SING-CHI (in Cantonese): *President, the Secretary said just now that the Chief Executive often makes different district visits and participates in activities arranged by the community. The Secretary said that district visits are arranged by the CEO. However, in the television programme on the Chief Executive's district visits, I notice that Members of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) often stood behind the Chief Executive. They took pictures together with the Chief Executive; and Mr LAU Kong-wah chatted with him in an event. Are these events arranged by the CEO? Is he returning a favour to the DAB for their support during his election campaign?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, if Mr WONG Sing-chi is referring to the six district visits made last Monday, the visits are arranged by the CEO together with the relevant District Officers. As I have explained to Mr TAM Yiu-chung just now, the question and answer session held in a district visit is mainly co-hosted by the District Officer and the Chairman or Vice-chairman of the relevant District Council. The venue is open to the public and everyone is welcomed to participate. At least in the district visit that I participated in, I did not notice any bias towards certain political groups or parties. In fact, for the district visit I participated in, I find the hosts rather fair in allowing the public and not the District Council members to raise questions in the first few rounds. I think this arrangement is appropriate and worth others to draw reference from. Nevertheless, if there is room for improvement in respect of arrangement for the participants or for question asking, we, particularly the CEO, will be more than happy to listen to Members' views. In hammering out the arrangement, we will strive to cater for the needs and voices of different stakeholders.

MR ALAN LEONG (in Cantonese): *President, I am not sure if the Secretary is aware that an exclusive interview with the Chief Executive by Radio Television Hong Kong was aired yesterday. When talking about the Chief Executive Election in 2017, he said that he could not guarantee that the pan-democrats could "get on board", nor could he guarantee that certain political power, despite having popular support, would be able to secure a place in the election. He said that the question should not be put this way.*

Regarding the Legislative Council Election 2020, he said that altering the FCs and the arrangement of the split voting system would be a big gesture and would not be an easy task. He would rather do some real work.

May I ask the Secretary whether he has told the Chief Executive that his remark is a regression from the NPCSC's decision in 2007? Does his remark means that the election will regress to a fake universal suffrage?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the elections in the future, the Administration must and can only proceed in accordance with the Basic Law and the NPCSC's decision. As for the detailed arrangement, it is precisely what we need to

extensively consult the public for. Hence, at this moment, we need to kick start the first step, which is to initiate the procedure.

The Explanations on the Draft NPCSC's decision (the Explanations) in 2007 have made a substantial input in how to return the Chief Executive by universal suffrage, but it has also left ample room for us to extensively consult the views of the Hong Kong people after the procedure is initiated. For instance, it is stipulated in the NPCSC's decision that after a certain number of candidates for the office of the Chief Executive have been nominated by the nominating committee, the candidates shall be elected through universal suffrage by all registered electors of the HKSAR. As for what does it mean by "a certain number of" candidates, the Explanations have also shed some light on it: "with regard to the appropriate number of Chief Executive candidates, this can be further discussed within the Hong Kong community. Hence, the Draft Decision only puts forth, in principle, that the nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive."

As can be seen in the NPCSC instruments and documents, the specific arrangement is subject to a further consultation exercise where in-depth discussion will be held within the Hong Kong community. At this moment, I believe we need not make any premature speculation. Anyhow, we shall follow three major principles: first, we must proceed in accordance with the Basic Law and the NPCSC's decision; second, we must extensively consult the views of the Hong Kong community so as to come up with a proposed package that can better forge a consensus within the community; and third, the proposed package certainly requires the support of a two-thirds majority of the Legislative Council Members. Hence, we need to look into the specific details with Members during the consultation process and the time afterwards. Now, I believe we, that is, the Government, Members as well as members of the public, should remain open-minded so as to pave the way for good communication and discussion in the future.

PRESIDENT (in Cantonese): This Council has spent more than 23 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Non-elderly One-person Applicants for Public Rental Housing**

7. **MS CYD HO** (in Chinese): *President, as revealed by a survey conducted by an organization, while the number of non-elderly one-person applicants on the Waiting List for public rental housing (Waiting List) has increased substantially, there is a cap on the number of public rental housing (PRH) units for allocation to non-elderly one-person applicants. In this connection, will the Government inform this Council:*

- (a) *of the existing number of PRH applications, the number of non-elderly one-person applicants on the Waiting List, and the percentage of the number of non-elderly one-person applicants in the total number of PRH applicants;*
- (b) *of the numbers of PRH units already allocated to and those available for allocation to non-elderly one-person applicants;*
- (c) *of the number of PRH units made available for allocation to non-elderly one-person applicants in the past five years after the non-elderly one-person tenants had moved out of the PRH units or been transferred, together with the number of PRH units constructed for allocation to non-elderly one-person applicants in each year;*
- (d) *of the non-elderly one-person applicants' average waiting time for allocation of PRH units; the measures the authorities have in place to shorten the waiting time of non-elderly one-person applicants; and if such measures are not in place, of the reasons for that; and*
- (e) *whether the authorities have projected in the population estimates for 2030 the numbers of non-elderly single persons in the coming 18 years; whether the numbers are projected to increase or decrease, and of the reasons for the increase/decrease; whether the authorities have adjusted the public housing policy in the light of such a trend of demographic change to cater for the housing needs of members of the public?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government and the Hong Kong Housing Authority (HA)'s objective is to provide PRH to low-income families who cannot afford private rental accommodation, with a target to maintain the Average Waiting Time (AWT) for general applicants at around three years. The AWT target is not applicable to non-elderly one-person applicants under the Quota and Points System (QPS).

To rationalize the allocation of limited housing resources and to balance the housing needs among different categories of applicants (including family, elderly and non-elderly one-person applicants, and so on), under the current system, the allocation of PRH to non-elderly one-person applicants is subject to the QPS.

Under the QPS, the relative priority for PRH allocation to applicants is determined by the number of points the applicants receive. Points are assigned to the applicants on the basis of their ages at the time of submitting the PRH applications, the waiting time and whether they are PRH tenants. In general, the older the applicant and the longer the applicant has waited, the higher the number of points. The higher the number of points accumulated, the earlier an applicant will be offered a PRH flat. The annual allocation quota under the QPS is set at 8% of the number of flats planned to be allocated to WL applicants, subject to a ceiling of 2 000 units.

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

(a) As at end March 2012, there were 189 500 applications on the WL. Among them, about 87 800 were non-elderly one-person applications under the QPS, representing 46% of the applications on the WL.

(b) and (c)

To effectively utilize PRH resources, the HA at present does not build flats of specific sizes for households with certain numbers of family members, including non-elderly one-person applicants. PRH units of different types and sizes each has an allocation range for flexible allocation of units to households of suitable sizes. For example, small units of New Harmony blocks can be allocated to

one- to two-person households. Therefore, the HA does not have any statistics on the number or on the allocation of new units or recovered flats specifically for non-elderly one-person applicants.

(d) and (e)

As at end March 2012, the AWT of non-elderly one-person applicants rehoused through the QPS was 2.9 years. It should be noted that such non-elderly one-person applicants rehoused were generally older at the time of application, and thus they had more points.

As mentioned above, due to limited PRH resources, we must give due regard to and balance the needs of various categories of WL applicants. Therefore, we need to rationalize through the QPS the housing needs of various applicants, including family, elderly and non-elderly one-person applicants.

Nevertheless, under the existing arrangements, apart from applying for PRH under the QPS, non-elderly one-person applicants can also apply for PRH as ordinary family applicants together with their family members. To encourage the younger generation to live together with their elderly parents, the HA has introduced a number of enhanced housing arrangements to foster family harmony. Under the Harmonious Families Addition Scheme, eligible adult offspring may apply for addition to the tenancy of elderly tenants. Under the Harmonious Families Priority Scheme (HFPS), young people may apply with their elderly family member(s) for a PRH flat and enjoy a six-month credit waiting time. Unlike the other non-elderly applicants, the applicants under the HFPS can apply for PRH flats in any districts, including the urban district. Eligible non-elderly one-person applicants with a pressing need for housing may apply under the Express Flat Allocation Scheme, or Compassionate Rehousing with recommendation from the Social Welfare Department for earlier rehousing.

The Administration does not have a breakdown by the number of non-elderly single persons in the population projections. However, in light of the significant increase in the number of applications on

the WL, and in order to continue to maintain the AWT of general applicants at around three years, we are conducting a review to take stock of the overall demand and supply situation of PRH, including the demand from non-elderly one-person applicants. The review also covers the number of new units required. We would also study what action should be taken to respond to the continued rise in the number of PRH applications. If necessary, we would adjust the production target of the PRH construction programme for the next five years at an average of 15 000 units per year.

Employment Assistance for Recipients of CSSA

8. **MR WONG KWOK-KIN** (in Chinese): *President, at present, able-bodied recipients under the Comprehensive Social Security Assistance (CSSA) Scheme who are 15 to 59 years of age and unemployed or working part-time are required to participate in the Support for Self-reliance Scheme. In this connection, will the Government inform this Council:*

- (a) *of the latest measures in place to assist unemployed or low income CSSA recipients in securing employment again and increasing their incomes;*
- (b) *whether the Social Welfare Department (SWD), Labour Department (LD) and Employees Retraining Board (ERB) will strengthen their liaison to proactively introduce to CSSA recipients the courses organized by ERB-entrusted training bodies (retraining courses) and encourage them to take such courses;*
- (c) *whether it knows the number of people who had enrolled in retraining courses in each of the past five years; among such people, of the number of those who were CSSA recipients when they enrolled in the courses;*
- (d) *of the numbers of CSSA recipients who had been re-employed and stopped receiving CSSA payments after completing the retraining courses in each of the past five years; in what industries and positions these people were mainly employed; and*

- (e) *whether it will consider making it a requirement for all CSSA recipients eligible for enrolling in retraining courses to take these courses, so as to enhance their opportunity in securing employment again; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr WONG Kwok-kin's questions is as follows:

- (a) and (e)

The SWD generally requires recipients of the CSSA who have the capacity to work, but who are unemployed, or whose monthly earnings or working hours do not meet the prescribed standard, to join the Support for Self-reliance Scheme. The Scheme aims at encouraging and helping them secure full-time paid employment and move towards self-reliance. In this regard, the SWD commissions non-governmental organizations (NGOs) to provide various employment assistance services. These include the Integrated Employment Assistance Scheme designed for able-bodied CSSA recipients aged between 15 and 59, and the Special Training and Enhancing Programme (MY STEP) specially designed for CSSA youths aged between 15 and 29⁽¹⁾. NGOs providing these services will, based on the need of the CSSA recipients, refer them to enrol in courses of the ERB. ERB's policy is to give enrolment priority to CSSA recipients. As CSSA recipients have different aspirations and abilities, and there are many ways to upgrade oneself and find jobs, we do not consider it necessary to make enrolment in ERB courses mandatory for CSSA recipients.

To enhance the effectiveness of the various employment assistance services and achieve synergy, the SWD will integrate them in January 2013.

- (1) The SWD also commissions NGOs to run the New Dawn Project for single parents and child carers on CSSA, whose youngest child is aged between 12 and 14. The objective of this Project is to help the CSSA recipients gradually adapt to working life, in order to prepare them for self-reliance in future. It does not require them to seek full-time jobs immediately.

Separately, the Disregarded Earnings arrangement under the CSSA Scheme allows part of the recipient's monthly earnings from employment to be disregarded when assessing the amount of assistance payable. This can provide CSSA recipients with financial incentives to seek jobs and stay in employment.

- (b) The LD set up a pioneer Employment in One-stop (EOS) service centre in Tin Shui Wai in December 2011 with the aim of streamlining, integrating and enhancing the existing employment and training/retraining services provided by the LD, the SWD and the ERB. EOS and an ERB Service Centre are co-located in the same building. Since their launch, EOS and the ERB Service Centre have been working closely and helping one another in publicizing their services and activities for the benefit of their service users.

In the first year and second year of EOS' operation, the SWD will respectively refer 500 and 750 unemployed able-bodied CSSA recipients in Tin Shui Wai to EOS for receiving case management and employment support services provided by case managers who are registered social workers. If the case managers assess that these job seekers have training or re-training needs, they will be referred direct to the ERB Service Centre for enrolment into suitable ERB courses. Moreover, to enhance their employability, ERB Service Centre will organize tailor-made workshops on areas such as language and computer application for these job-seekers.

- (c) There were 627 196 applications for ERB's training courses in the past five years. Among them, 44 801 were CSSA recipients.
- (d) Through its territory-wide network of training centres set up by the training bodies, the ERB provides a wide array of training courses, including full-time placement-tied courses, "Skills Upgrading Scheme Plus" courses as well as part-time or evening generic skills training courses. Training bodies generally offer placement follow-up services for trainees upon their completion of placement-tied courses. Such services last for three to six months.

For CSSA recipients who completed placement-tied courses in the past five years, the average placement rate was 74%. Most of them were employed in the fields of social and personal services (50%), commercial services (31%) and consumer services (19%). The ERB does not have information regarding the positions which they have taken up or their CSSA status upon completion of the training courses.

Operation of Hong Kong Girl Guides Association

9. **MR LEUNG KWOK-HUNG** (in Chinese): *President, after I pointed out in 2010 that the President of the Hong Kong Girl Guides Association (the Association) (who was the wife of the Chief Executive of the last term), which is a statutory body, had breached the regulations in appointing its Hong Kong's Chief Commissioner (HKCC) who was already overage, I further uncovered that the Association hosted banquets with tens of tables in a hotel or in the Hong Kong Convention and Exhibition Centre (HKCEC) each year for its annual dinner party. On 16 September 2010, the Association also mistakenly pointed out through the media that "the sale of raffle tickets had been conducted for more than 20 years and the percentage of refund to its units had never been in the region of 50%", and refused to distribute refund to its units at a maximum percentage of 50% starting from the sale of the 1 001st ticket. I have learnt that the Association has issued letters to the business sector in recent months, using the invitation of the wife of the new-term Chief Executive (new Chief Executive's wife) to the charity premiere (premiere) on 2 July this year as a pretext to raise \$600,000 in the title sponsorship and other sponsorships at various levels. Quite a number of parents, members of women's groups, staff members of the Association, unit guiders and members of the business sector have relayed to me that the public felt offended by the Association creating opportunities for collusion between the Government and the business sector. In this connection, will the Government inform this Council:*

- (a) *whether it knows if the office of the next President of the Association will be held by the new Chief Executive's wife; if so, when she will do so; if not, whether she will not hold the office within the term of the new-term Chief Executive (that is, from 2012 to 2017);*

- (b) *whether the Government of the new term will appoint more civil servants to the administrative structure of the Association to review the Association's arrangements of spending money on holding annual dinner parties in hotels or exhibition venues; if it will, when such appointments will be made and of the number of persons to be appointed; if not, the reason for that;*
- (c) *whether it knows if the President of the Association had ever contacted any person operating gambling establishments in Macao when attending the activities of the Association in the past five years; if she had, the number of such contacts;*
- (d) *whether it knows if the President of the Association had ever attended any annual dinner party of the Association in the past five year; if she had, whether any person from the business sector had been invited to meet her at the dinner parties; if so, the number of such invitees; whether it has assessed if such an arrangement will give rise to possible collusion between the Government and the business sector; if not, of the reasons for that;*
- (e) *whether it knows the sum of money raised by the Association in the premiere held in early July this year;*
- (f) *whether it knows why the Association has used the attendance of the new Chief Executive's wife as a pretext to get around and raise money from the business sector;*
- (g) *given that the Association appointed an overage HKCC, which was in breach of regulations, whether it will hold the Director of Bureau (DoB) concerned, who is a principal official under the accountability system, politically accountable and require him to step down for failure to monitor the Association; if it will, when the DoB will step down; if not, of the reasons for that; whether it has penalized any civil servant who is responsible for monitoring the Association; if it has, of the penalties; if not, the reasons for that;*
- (h) *given that the Government granted a site in Yau Tsim Mong District to the Association three years ago for construction of its new*

headquarters but no construction works have commenced yet, whether the Government will resume the site immediately; if it will, of the time to do so; if not, whether it will continue to leave this government site idle; and

- (i) *whether the Home Affairs Bureau and the Audit Commission have assessed if it is a proper arrangement for government-subsidized charities to spend money holding annual general meetings in high-class hotels or HKCEC each year; if they have, of the details, and whether the Secretary for Home Affairs and the Director of Audit will order immediately the government department(s) concerned to intervene and investigate such charities?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the Association is an independent statutory non-governmental organization. The Home Affairs Bureau provides subvention for its youth development activities. My reply to the question raised by Mr LEUNG Kwok-hung is as follows:

- (a) According to Article 12.01 of the Constitution of the Association, "the President of the Association should be the wife of the Chief Executive of the Hong Kong Special Administrative Region". As we understand, the Association has sent an invitation letter to the wife of the fourth term Chief Executive in accordance with the above article. It has not received a reply yet.
- (b) The holding of annual dinner parties is an internal matter of the Association. According to its Constitution, the Council is responsible for controlling and managing the affairs of the Association. The composition of the Council is set out in its Constitution. As invited by the Association, the Home Affairs Bureau has assigned an officer to be one of the appointed representatives of the Council. However, the Government is not involved in such exact internal operational matters as organizing a dinner of the Association.
- (c) According to the Association, activities of different scales are held every year and members from different sectors of the community will be invited in the light of the nature of activities. The President

and the guests will have opportunities to exchange with each other on these occasions in general. The Association, however, does not record the circumstances of such exchange.

- (d) The Association's activity arrangements are its internal matters. As we understand, all those invited to the annual dinner of the Association are supporters of the guiding movement under Girl Guides from all walks of life. The Association does not keep the statistics of how many of these guests are from the business sector. Just like any other community organizations, it is normal for the guiding movement under Girl Guides to receive support from the business sector. In the past five years, the former President of the Association attended the annual dinner but had stayed there only for a short period of time. The Association does not record the general exchanges between the President and the guests.

- (e) and (f)

The fund-raising activities of the Association are its internal matters. As we understand, the wife of the Chief Executive did not accept the invitation of the Association to its charity film premiere held in July. About HK\$1 million has been raised so far for funding the guiding movement under Girl Guides and the Lang Lang Music World.

- (g) The election and appointment of the Association's HKCC is an internal matter of the Association. As we understand, the Association passed a resolution at an Extraordinary General Meeting on 13 October 2010 to confirm the election and appointment of its HKCC in 2007, as well as all decision made by her during her term of office. The incumbent HKCC elected on 8 January 2011 is also within the age limit stipulated in the Association's Policy, Organization and Rules.
- (h) The Association is actively exploring the development options of its new headquarters. Depending on the proposal of the Association, the Government may have further decision on the use and development of the site concerned, which is currently leased out on a short-term tenancy for temporary car park purpose.

- (i) The Association's activity arrangements are internal matters of the Association. According to the Association, the expenditure of such dinner parties is borne by participants of the event or other sponsors, and no daily operational fund of the Association and no public money are involved. The sum of money raised will be used by the Association on Girl Guides development and for organizing activities. The Association is an independent non-governmental organization and the Government has no intention to interfere with its internal matters.

Job Matching Programme

10. **MR WONG KWOK-KIN** (in Chinese): *President, the information from the Labour Department (LD) reveals that dedicated officers are arranged to follow up every case under the Job Matching Programme (the Programme) to identify suitable candidates for employers. In connection with the implementation of the Programme in the past five years (that is, from 2006 to 2011), will the Government inform this Council:*

- (a) *of the number of job seekers registered in each year; among them, the number of registrants who had successfully secured employment as well as the percentage of such number in the total number of registrants;*
- (b) *of the trades in which the registrants in each year were formerly engaged; the respective numbers of registrants who had been unemployed for less than three months and those for a period of three to six months, and the respective percentages of such numbers in the total number of registrants;*
- (c) *regarding the registrants who had successfully secured employment in each year, of the types of jobs in which the majority of them were employed; the respective percentages of the numbers of those employed as office assistants, general workers and security guards in the total number of registrants who successfully secured employment;*

- (d) *of the comparative figures on the types of jobs, wages, working hours, working environment, employee benefits and employees' compensation of the posts of the registrants who had successfully secured employment before and after they had changed jobs in each year; among them, the number of those registrants whose wages reached the median wage of their respective trades;*
- (e) *of the number of registrants who had declined to accept employment with the matched employers in each year; among them, the respective percentages of the numbers of registrants who had declined a job offer on account of dissatisfaction with the job nature, wage level or working hours in the total number of registrants who had declined a job offer; and*
- (f) *if any information on parts (a) to (e) is not available, of the reasons for that; whether the authorities will consider embarking on the collection of such information?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the LD launched the Job Matching Programme (JMP) in 1995 to provide personalized employment assistance to job seekers. Under JMP, placement officers helped job seekers find work by introducing to them job vacancies that suit their qualifications and interests. To further strengthen the employment support for the unemployed, the LD implemented the Pilot Employment Navigator Programme (ENP) in December 2010. The unemployed are assisted and encouraged to secure and sustain in employment through the provision of intensive employment counselling and financial incentive. Following the implementation of the Pilot ENP, JMP ceased operation at the end of 2010.

Regarding Mr WONG Kwok-kin's question, my reply is as follows:

- (a) The numbers of JMP participants and successful employment cases from 2006 to 2010 are as follows:

<i>Year</i>	<i>Number of JMP participants</i>	<i>Number of successful employment cases*</i>
2006	11 669	7 280
2007	9 024	7 015

<i>Year</i>	<i>Number of JMP participants</i>	<i>Number of successful employment cases*</i>
2008	8 561	5 736
2009	10 508	5 611
2010	6 320	4 214

Note:

* Including employment cases secured by JMP participants through the LD's introduction and cases which the JMP participants found work on their own accord. Since individual JMP participants may be employed in more than one job in the same year, the numbers of successful employment cases and JMP participants should not be directly compared.

- (b) Breakdowns of the JMP participants by the industry of their employment and unemployment period prior to joining the JMP are as follows:

Distribution by industry

<i>Industry</i>	<i>Number of participants</i>				
	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Manufacturing	2 124 (18.2%)	1 605 (17.8%)	1 582 (18.5%)	1 899 (18.0%)	1 025 (16.2%)
Construction	763 (6.5%)	509 (5.7%)	381 (4.5%)	458 (4.4%)	232 (3.7%)
Wholesale, retail and import/export trades, restaurants and hotels	3 150 (26.9%)	2 555 (28.3%)	2 350 (27.5%)	2 805 (26.7%)	1 690 (26.7%)
Transport, storage and communications	648 (5.6%)	504 (5.6%)	534 (6.2%)	819 (7.8%)	407 (6.4%)
Financing, insurance, real estate and business services	2 005 (17.2%)	1 556 (17.2%)	1 564 (18.2%)	1 934 (18.4%)	1 208 (19.1%)
Community, social and personal services	1 315 (11.3%)	1 079 (12.0%)	1 004 (11.7%)	1 193 (11.4%)	827 (13.1%)
Others (including government sector)	801 (6.9%)	608 (6.7%)	614 (7.2%)	766 (7.3%)	491 (7.8%)
Without working experience	863 (7.4%)	608 (6.7%)	532 (6.2%)	634 (6.0%)	440 (7.0%)
Total	11 669 (100%)	9 024 (100%)	8 561 (100%)	10 508 (100%)	6 320 (100%)

Distribution by unemployment period

<i>Unemployment period</i>	<i>Number of participants</i>				
	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Less than three months	4 785 (41.0%)	3 611 (40.0%)	3 754 (43.9%)	4 116 (39.2%)	2 357 (37.3%)
Three to six months	3 278 (28.1%)	2 489 (27.6%)	2 264 (26.4%)	3 470 (33.0%)	1 832 (29.0%)
Others (including those in employment, those unemployed for more than six months and those who did not provide information on unemployment period)	3 606 (30.9%)	2 924 (32.4%)	2 543 (29.7%)	2 922 (27.8%)	2 131 (33.7%)
Total	11 669 (100%)	9 024 (100%)	8 561 (100%)	10 508 (100%)	6 320 (100%)

- (c) The LD only kept the information on the occupation group of the employment cases secured through the LD's introduction. We did not keep breakdown statistics on individual job titles. Breakdown of employment cases by occupation group is as follows:

<i>Occupation group</i>	<i>Number of employment cases secured through the LD's introduction</i>				
	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Managers and administrators	38	46	40	47	33
Professionals	42	38	24	41	27
Associate professionals	442	334	274	395	291
Clerical support workers	2 158	1 778	1 552	1 321	1 042
Service workers	577	467	352	474	343
Shop sales workers	390	286	221	224	156
Agriculture, animal husbandry and forestry workers and fishermen	33	37	18	18	17
Craft and related workers	255	202	152	153	96
Plant and machine operators and assemblers	173	157	115	97	82
Elementary occupations	2 314	2 005	1 725	1 552	1 251
Others	13	9	7	7	5
Total	6 435	5 359	4 480	4 329	3 343

- (d) The LD did not collect information on the working hours, working environment, employee benefits and compensation, and so on, of the jobs held by job seekers before or after joining JMP, and thus could not provide the relevant statistics for comparison.

The LD only collected information on the wage level of the jobs secured by job seekers through the LD's introduction after joining JMP. It did not keep the wage information of their employment prior to joining JMP. Thus, no comparison on wages could be provided. Moreover, as only the wage range of JMP participants was kept, no comparison with the median wage level of the respective trades could be made. Distribution of the employment cases by wage range is as follows:

<i>Wage range</i>	<i>Number of employment cases secured through the LD's introduction</i>				
	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
\$5,000 or below	2 771	2 274	1 250	928	630
\$5,001 to \$6,000	1 471	163	1 124	1 562	1 016
\$6,001 to \$7,000	1 098	1 081	922	806	726
\$7,001 to \$8,000	587	613	615	543	502
\$8,001 to \$9,000	260	853	276	233	231
\$9,001 to \$10,000	125	236	134	115	100
\$10,001 or above	123	139	159	142	138
Total	6 435	5 359	4 480	4 329	3 343

In respect of occupation, the LD did not keep comparison statistics on the occupations secured by job seekers before and after joining JMP. The LD only kept breakdown statistics on the occupational group of the jobs secured by job seekers through the LD's introduction after joining JMP and the information has been provided in part (c) of the reply.

- (e) The numbers of job offers secured through the LD's introduction but declined by JMP participants from 2006 to 2010 are as follows:

<i>Year</i>	<i>Number of job offers declined by JMP participants</i>
2006	1 238
2007	1 163

<i>Year</i>	<i>Number of job offers declined by JMP participants</i>
2008	1 127
2009	744
2010	598

The main reasons for declining job offers included the participants concerned having found other work or considering the nature of the jobs not suitable. The LD did not keep further statistical breakdown on individual reasons.

- (f) As JMP already ceased operation in December 2010, the LD has no plan to collect further information on JMP.

Regulation of Debt Collection Agencies

11. **MR ALBERT CHAN** (in Chinese): *President, in its reply to my question at the Council meeting of 22 June 2011, the Government indicated that the police attached great importance to combating illegal debt collection activities conducted by debt collection agencies (DCAs). However, I have learnt that the situation of debtors being harassed by DCAs in their debt collection activities is deteriorating recently, and it is still common for banks, finance companies, telecommunications service companies, beauty service companies and tutorial teachers to hire DCAs to collect money owed by their customers. In this connection, will the Government inform this Council:*

- (a) *of the number of cases about harassment by DCAs reported by the public to the police since 22 June of last year;*
- (b) *whether the Government will, in view of the aforesaid situation, consider afresh accepting the recommendations in the report of the Law Reform Commission (the LRC) of Hong Kong on "The Regulation of Debt Collection Practices" published in 2002 that a criminal offence of harassment of debtors and others should be created, and that a statutory licensing system to monitor DCAs should be established; if it will, of the details; if not, the reasons for that; and*

- (c) *whether it will consider introducing new enforcement measures to curb the harassing practices adopted by DCAs to recover debts; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President, the Government is concerned about the nuisance of improper debt collection practices caused to the public and has adopted a multi-pronged approach to prevent and combat such practices through measures including strengthening enforcement and close monitoring the debt collection practices of relevant sectors by regulatory authorities. The number of such reports made to the police decreased from 16 542 in 2007 to 11 610 in 2011, representing a drop of 29.8%. The reply to the three parts of question is as follows:

- (a) In 2011, the police received a total of 1 859 debt collection-related crime reports and 9 751 harassment reports unrelated to crime. The total number of reports decreased by 15.2% when compared with 2010. In the first four months of this year, that is, January to April 2012, the police received a total of 641 debt collection-related crime reports and 3 092 harassment reports unrelated to crime. The total number of reports also decreased by 4.8% as compared to the same period in 2011.
- (b) As regards the LRC's report on "The Regulation of Debt Collection Practices", the Administration, after thorough consideration, made a detailed response to the report in September 2005. On the whole, a number of legislative provisions are already in place to combat various illegal debt collection practices. We are of the view that there is no need to introduce new criminal offence provisions or a separate licensing scheme in respect of operation of DCAs. The police will enforce the law rigorously, and conduct investigations and prosecute any crime-related debt collection practices. For other improper debt collection cases that are non-criminal, the police will continue to co-ordinate with related government departments and regulatory authorities in handling these cases.

Regarding stalking in relation to debt collection activities, the Constitutional and Mainland Affairs Bureau published a consultation

paper on stalking last year to consult the public on the proposal to legislate against stalking and the key elements of the proposed legislation. The Constitutional and Mainland Affairs Bureau is consolidating and analysing the views received during the public consultation.

- (c) The police attach great importance to combating illegal debt collection activities, and have adopted pro-active measures to enhance the effectiveness of enforcement actions. Apart from setting up a dedicated team to closely monitor the trend of improper debt collection practices in various districts of the territory, and to formulate comprehensive preventive and operational strategies having regard to specific circumstances, the police will continue to, through stepping up patrol and co-operating with property management companies in their respective districts, prevent illegal or improper debt collection activities in housing estates and buildings as well as publicity activities of loansharking syndicates in these properties.

In handling individual cases, the police will continue to implement internal guidelines formulated for handling of reports of improper debt collection practices. Debt collection cases involving criminal offences, such as those involving criminal damage or intimidation, will be referred to the dedicated criminal investigation teams for investigation. The objective is to enable the teams to carry out investigations and gather evidences by pooling together experiences and expertise, and institute criminal prosecution in accordance with the law.

For reports that may not involve criminal offences at the moment, the police will assess each case on the possibility of debt collection practices turning into criminal offences, and then categorize it as "high threat" or "low threat" case. "High threat" cases will be referred to the criminal investigation teams for follow-up. As regards "low threat" cases, the police will continue to monitor their developments. Once there are signs that the seriousness of the case has heightened, the criminal investigation teams will take over the investigation.

If a DCA employed by any licensed money lender, bank or financial institution is suspected to be collecting debts by improper or illegal means, the police will co-ordinate with the regulatory authority concerned which will look into the matter and take follow-up action on the DCA employed. In addition, the Companies Registry will consult the police in handling every application for money lenders licences (including application for renewal). The police will consider all relevant factors, including complaint records of the money lenders, when deciding whether to support the above applications. Starting from January 2011, the Licensing Court has accepted the police's suggestion to include new licensing conditions when considering applications for money lenders licences. These conditions include requiring money lenders and their DCAs not to harass any persons when locating their debtors and not to adopt illegal or improper debt collection practices. This is to further regulate debt collection practices related to licensed money lenders. The police believe that these new measures would contribute to combating improper debt collection activities.

In addition to enforcement, the police also publicize successful enforcement operations and prosecutions to deter improper debt collectors or DCAs from engaging in illegal debt collection practices. Furthermore, the police urge the public to choose licensed money lenders or institutions and consider their repayment ability prudently when applying for a loan so as to reduce the chance of being harassed by improper debt collection practices in future.

Medical Social Work Services

12. **MR CHEUNG KWOK-CHE** (in Chinese): *President, recently, some medical social workers (MSWs) have complained to me that the working conditions in some medical social services units (MSSUs) are unsatisfactory, for example, the lack of independent and confidential interview rooms, the heavy workload, and the failure to increase the manpower of MSWs over the years in spite of the increased number of beds. In this connection, will the Government inform this Council:*

- (a) whether it knows the respective numbers of beds in various public hospitals and the respective numbers of MSWs in the MSSUs under the Social Welfare Department (SWD) and those under the Hospital Authority (HA) in various hospitals in the past five years (and set out the breakdown in Table 1 and Table 2);
- (b) whether the authorities have established a standard ratio of hospital beds to MSWs at present; if they have, of the details; if not; the reasons for that;
- (c) whether the authorities will increase the number of MSWs in the future in order to cope with the increasing number of patients and workload; if they will, of the details; if not, the reasons for that; and
- (d) whether it knows the respective numbers and areas of offices and interview rooms for MSSUs in various public hospitals at present (and set out the breakdown in Table 3); the number of MSSUs without independent interview rooms?

Table 1

<i>Medical social services units of the Social Welfare Department</i>		<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>	<i>2011-2012</i>
<i>Queen Mary Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Wong Chuk Hang Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Western Psychiatric Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Cheung Chau Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Pamela Youde Nethersole Eastern Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Pamela Youde Nethersole Eastern Hospital (Psychiatric Department)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>East Kowloon Psychiatric Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					

<i>Medical social services units of the Social Welfare Department</i>		<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>	<i>2011-2012</i>
<i>Tseung Kwan O Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Yung Fung Shee Memorial Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Queen Elizabeth Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Hong Kong Eye Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Kowloon Hospital (Rehabilitation Building) (Excluding Ward 2B and Patient Resource Centre)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Kowloon Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Kowloon Hospital (Psychiatric Department)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Prince of Wales Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Prince of Wales Hospital (Psychiatric Unit)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Shatin Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Tai Po Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>North District Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Castle Peak Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Siu Lam Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Tuen Mun Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Princess Margaret Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Princess Margaret Hospital (Lai King Building)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Kwai Chung Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					

<i>Medical social services units of the Social Welfare Department</i>		2007-2008	2008-2009	2009-2010	2010-2011	2011-2012
<i>West Kowloon Psychiatric Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Pamela Youde Child Assessment Centre (Kwun Tong)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Central Kowloon Child Assessment Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Ha Kwai Chung Child Assessment Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Pamela Youde Child Assessment Centre (Shatin)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Fanling Child Assessment Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Tuen Mun Child Assessment Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Kowloon Bay Integrated Treatment Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					

Table 2

<i>Medical social services units under the Hospital Authority</i>		2007-2008	2008-2009	2009-2010	2010-2011	2011-2012
<i>Alice Ho Miu Ling Nethersole Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Bradbury Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Caritas Medical Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Cheshire Home (Chung Hom Kok)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Cheshire Home (Shatin)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>TWGHs Fung Yiu King Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Grantham Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Haven of Hope Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					

<i>Medical social services units under the Hospital Authority</i>		<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>	<i>2011-2012</i>
<i>Hong Kong Buddhist Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Kowloon Hospital (Ward 2B at Rehabilitation Building)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Kwong Wah Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>MacLehose Medical Rehabilitation Centre</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Our Lady of Maryknoll Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Pok Oi Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Ruttonjee and Tang Shiu Kin Hospitals</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>The Duchess of Kent Children Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Tung Wah Eastern Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Tung Wah Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>TWGHs Wong Tai Sin Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>United Christian Hospital (Non-psychiatric medical social service)</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					
<i>Yan Chai Hospital</i>	<i>Number of beds</i>					
	<i>Number of MSWs</i>					

Table 3

	<i>Number of offices</i>	<i>Area of offices</i>	<i>Number of interview rooms</i>	<i>Area of interview rooms</i>	<i>No interview room</i>
<i>List the medical social services units in Table 1 and Table 2</i>					

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr CHEUNG Kwok-che's question is as follows:

(a), (b) and (c)

The MSWs of the SWD and the HA are stationed respectively at different public hospitals and specialist out-patient (SOP) clinics to provide suitable services to patients and/or their families with welfare needs. The SWD and the HA do not set a ratio between the number of hospital beds and the number of MSWs. In drawing up the appropriate staffing complement of MSWs in new hospitals, reference will be made to the overall situation of hospitals of the same category with similar scale, including the numbers of hospital beds, cases, attendances at accident and emergency departments and SOP clinics, and so on. MSWs provide services not only for in-patients but also patients of accident and emergency departments, day hospitals and SOP clinics. Also, the workload of MSWs generally increases along with the introduction of the HA's new initiatives or measures and the increased complexity of cases, and cannot be fully reflected by the number of hospital beds alone. Therefore, the SWD and the HA do not take the number of hospital beds as the sole indicator in creating MSW posts. Likewise, it is not appropriate to simply compare the numbers of hospital beds and MSWs in individual hospitals.

To dovetail with the HA's new initiatives for various services and strengthen the provision of medical social services for patients and/or their families with welfare service needs, the SWD provided a total of 54 additional MSWs in the past five years. As such, the total number of MSWs increased from 377 in 2007-2008 to 431 in 2011-2012, representing an increase of more than 14%. The average number of cases served by each MSW also decreased from 72 cases in 2007-2008 to 64 cases in 2011-2012. Details are tabulated below:

<i>Year</i>	<i>Number of MSWs</i>	<i>Average number of cases served by each MSW</i>
2007-2008	377	72
2008-2009	381	70

<i>Year</i>	<i>Number of MSWs</i>	<i>Average number of cases served by each MSW</i>
2009-2010	386	69
2010-2011	400	68
2011-2012	431	64

As for the HA, its various clusters provided a total of 28 additional MSWs in the past five years. As a result, the total number of MSWs increased from 145 in 2007-2008 to 173 in 2011-2012, representing an increase of about 20%. The monthly average number of attendance served by each MSW also decreased from 120 in 2007-2008 to 106 in 2011-2012. Details are tabulated below:

<i>Year</i>	<i>Number of MSWs</i>	<i>Monthly average number of attendance served by each MSW</i>
2007-2008	145	120
2008-2009	148	118
2009-2010	149	115
2010-2011	155	116
2011-2012	173	106

Notes:

- (1) The number of MSWs in the above table is calculated on full-time equivalent basis, including the HA's permanent, contract and temporary staff.
- (2) The number of MSWs does not include those working in the HA Head Office.
- (3) Caseload of MSWs kept by the HA is calculated on the basis of monthly attendance served by each MSW, rather than the number of cases. Such basis is different from that adopted by the SWD.

The Government will review the workload of MSWs from time to time and assess the need for increasing the manpower of MSWs having regard to the number of cases, the complexity of cases in related hospitals and clinics, mode of collaboration with healthcare personnel, development of the HA's new initiatives and service, and so on.

- (d) The layouts, sizes, numbers and distributions of offices and interview rooms (if any) for various departments (including the

Medical Social Service Units (MSSUs)) in different hospitals and SOP clinics vary according to factors such as service type, service demand and physical environment, and so on. Besides, independent offices are set up for some MSWs in the vicinity of SOP clinics or day hospitals. Hence, it is not appropriate to compare the area of offices and interview rooms of individual MSSUs.

Currently, the majority of the SWD's MSSUs attached to the HA have interview rooms, while the rest may use independent offices of MSWs or dedicated rooms in some wards to conduct interviews with patients or their families. In case there is no interview room available for MSWs to conduct counselling, they may arrange with the hospital for temporary use of rooms so as to protect the privacy of service users. The SWD and the HA will continue to closely monitor the situation with a view to enhancing the interview facilities for MSSUs in need and ensuring that the privacy of patients and their families can be protected in the course of service.

Provision of Paediatric Services in Public Hospitals

13. **DR PRISCILLA LEUNG** (in Chinese): *President, the Chief Executive of the last term announced as early as in his 2007-2008 Policy Address the initiative to study the establishment of a multi-partite Medical Centre of Excellence in Paediatrics (the Centre). The Government has started preparation for the establishment of the Centre since 2008 and set up a steering committee to provide policy directions for the Centre. A site in the Kai Tak Development Area has been identified as the final location of the Centre, and construction works are planned to commence next year and are scheduled to be completed in 2017. The Centre will come into service by phases starting from mid-2018. In this connection, will the Government inform this Council:*

- (a) *given that the Centre is expected to offer 468 beds and will be interfaced with 13 public hospitals with paediatric departments in Hong Kong to provide tertiary paediatric services, of the estimated number of sick children the Centre can serve in the first three years upon its commissioning; to what extent the Centre will relieve the public demand for paediatric services in public hospitals at present; whether the authorities have any plan as to when a review of the*

services of the Centre (including a study on whether addition of beds or expansion is necessary) will be conducted; if there is no such plan, of the reasons for that;

- (b) given that Mainland pregnant women have come incessantly to give birth in Hong Kong in recent years, if the authorities have assessed whether the future demand for paediatric services in Hong Kong will be affected by the increasing number of children born locally but whose parents are non-permanent residents of Hong Kong (doubly non-permanent resident children), and whether corresponding planning for the Centre is necessary; if the assessment results reveal that paediatric services will be affected, how the future services of the Centre will cater for the increase in the number of doubly non-permanent resident children; if assessment has not been made, of the reasons for that; and*
- (c) given that it has been learnt that there is a shortage of manpower supply in quite a number of public hospitals at present, whether the authorities have assessed if the establishment of the Centre will create further pressure on local healthcare manpower; if they have, of the results of the assessment, and the authorities' corresponding measures in place?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, in the 2007-2008 Policy Address, the Government announced that it would study the establishment of a Medical Centre of Excellence in Paediatrics (the Centre) to further enhance the quality of paediatric services in Hong Kong. The Food and Health Bureau has set up a Steering Committee since 2008 comprising renowned medical and healthcare professionals from the public and private sectors, academics, patient groups and non-government organizations to study the scope of services, mode of operation and physical infrastructure of the Centre. After thorough deliberation, it was decided that the Centre will locate at the South Apron of the Kai Tak Development. The Centre will adopt a new multi-partite approach to bring together experts in the public, private and academic sectors from both within and outside Hong Kong and enhance collaboration in healthcare, research and training, so as to contribute to the long-term development of paediatrics.

We have, together with the Hospital Authority (HA) and the Architectural Services Department (ArchSD), consulted the Task Force on Kai Tak Harbourfront Development under the Harbourfront Commission and relevant District Councils on the proposed development of the Centre in early 2012. We have also briefed the Legislative Council Panel on Health Services on the Centre project on 12 March 2012.

The ArchSD has invited tender for the Centre on 13 April 2012 and the tender evaluation is expected to be concluded by the first quarter of 2013. Subject to the tender result, we will seek funding approval from the Finance Committee of the Legislative Council. It is expected that the construction works will commence in mid-2013 for completion by late 2017, and the Centre will commence services by phases starting from mid-2018.

My replies to various parts of the Question are as follows:

- (a) The HA has conducted in-depth reviews on the existing paediatric services of public hospitals. The roles of and partnership between the Centre and hospitals in various clusters have been defined. To this end, the Centre will mainly provide tertiary specialist services for children under the age of 18 with serious and complex illnesses throughout the territory; whilst public hospitals with paediatric departments will continue to provide acute paediatric services, secondary care services and community care in their respective communities. This model can link up primary, secondary and tertiary paediatric services more effectively, thereby establishing a well co-ordinated and connected paediatric service network. As mentioned above, the Centre is planned to commence services by phases starting from mid-2018, with details being worked out. In general, we anticipate that the Centre will help enhance the quality of local paediatric services and relieve service pressure on hospitals in various clusters.

The HA will keep in view from time to time the demand for paediatric services to meet the community needs and enhance the quality of paediatric services. There is still some time before the commissioning of the Centre and we will conduct timely service reviews in light of the community needs and situation, as well as the

experience gained after the operation of the Centre, so as to ensure that paediatric patients can receive adequate healthcare services.

- (b) In planning for the services of various paediatric subspecialties, the HA takes into account the population projection by the Census and Statistics Department as well as statistics on the cases of severe illness (for example, childhood cancer, heart disease and kidney failure, and so on). At present, babies born to Mainland women in Hong Kong are Hong Kong residents (that is, eligible persons) and entitled to use subvented public healthcare services at the HA's hospitals, including the Centre. In planning for the services of the Centre, the HA has also taken into account the demand for paediatric services from these newborn babies. As the HA has announced that it will stop admitting non-local pregnant women in this and next year and that private hospitals will stop admitting Mainland pregnant women whose spouses are non-Hong Kong permanent residents next year, the demand for paediatric services from these children will hopefully be relieved. We estimate that the number of beds and the comprehensive services of paediatric subspecialties and relevant specialties at the Centre will be sufficient to meet the demand for tertiary paediatric services in future.
- (c) In planning for the provision of public healthcare services, the HA takes into account a number of factors, including the projected demand for healthcare services having regard to population growth and demographic changes, the growth rate of services of individual specialties and the possible changes in healthcare services utilization pattern, and so on. Besides, the HA conducts annual reviews on its manpower requirements and service growth, including plans for new hospitals and provision of additional beds, in order to provide appropriate services. In this connection, a working group with wide representation from clinicians of different paediatric and paediatric-related subspecialties across the HA and universities has been established by the HA to examine and implement training issues. In developing a training plan, the HA will also take into account the current manpower shortage and the manpower needs of the future Centre.

On the other hand, based on the outcome of the Second Stage Public Consultation on Healthcare Reform, the Government has set up the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development chaired by the Secretary for Food and Health to conduct a strategic review on healthcare manpower planning and professional development in Hong Kong. The Steering Committee will assess manpower needs in the various healthcare professions (including paediatric healthcare professionals) and formulate recommendations on how to cope with anticipated demand for healthcare manpower, strengthen professional training and facilitate professional development having regard to the findings of the strategic review, with a view to ensuring the healthy and sustainable development of our healthcare system.

Initiatives Under "Energizing Kowloon East" Project

14. **MR PAUL TSE** (in Chinese): *President, it has been reported that the Energizing Kowloon East Office (EKEO) plans to transform the 200 000 feet derelict land under an elevated section of the Kwun Tong Bypass and the Tsun Yip Street Playground (TYS Playground) into music performance area and public space, so as to vitalize the industrial zone which falls silent at night time. In this connection, will the Government inform this Council:*

- (a) *apart from the development of outdoor performance area/public space, and in view of the insufficient timeslots for performances in the Hong Kong Coliseum (HKC), whether it has considered converting the two soccer pitches and two basketball courts in the TYS Playground into an indoor venue which can accommodate both cultural performances (for example, concerts and visual arts displays) and ball games, so as to add cultural and recreational elements to the Kowloon East core business district project, as well as meet part of the demands for using HKC; if it has, of the outcome; if not, whether it can assess the feasibility of the aforesaid recommendation; and*
- (b) *of a comparison of the level of satisfaction in usage and construction costs between EKEO, which was built with recyclable steel structures and old containers as its essential construction materials*

and embodies a number of energy-conservation concepts, and traditional office buildings, which are built with materials such as steel, concrete and glasses, and so on; if the outcome of the comparison proves that the former brings about better results on land utilization and office uses, as well as being more cost-effective, whether the authorities will consider constructing more government offices similar to EKEO in other areas in Kowloon East, and relocating some government departments to the redevelopment area to foster regional development and compensate for the deficiency of the recently commissioned new Central Government Complex at Tamar which has already been criticized for not having sufficient office space?

SECRETARY FOR DEVELOPMENT (in Chinese): President, in his 2011-2012 Policy Address, the Chief Executive announced that we would adopt a visionary, co-ordinated and integrated approach to transform Kowloon East, comprising the Kai Tak Development Area (KTDA), the former industrial areas of Kwun Tong and Kowloon Bay, into an attractive central business district (CBD) to sustain Hong Kong's long-term economic development. In just a few months' time since its establishment in February this year, the Pre-Kowloon East Development Office has organized various briefings, seminars and workshops to engage the public and relevant stakeholders and draw on their ideas and insights. The views collected had been consolidated to form the Conceptual Master Plan of Kowloon East 2.0 (CMP 2.0), which was announced on 7 June 2012 when the EKEO was established officially. The CMP 2.0 embraces the grand vision of promoting our long-term economic growth and global competitiveness by transforming Kowloon East into another premier CBD. It also spells out the 10 main tasks that need to be accomplished in achieving the vision. They include exploring the possibilities to develop the vacant lot of about 10 000 sq m under the Kwun Tong Bypass into a public space for staging arts and cultural performances and to transform TYS Playground into an inviting and vibrant place. It is to integrate arts and cultural activities into city life and create a unique atmosphere to set the scene for the transformation of Kowloon East.

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

- (a) The TYS Playground lies at the heart of the Kwun Tong Business Area where buildings are densely packed. According to the Draft

Kwun Tong (South) Outline Zoning Plan (S/K14S/17), the TYS Playground is zoned as "Open Space". It is an invaluable "city lung". We therefore should strive to preserve and transform this urban space into a place where people would like to work, to do business, to walk, to stay and to play. To this end, we will enhance tree planting and greening works and consider introducing new design elements for transforming the TYS Playground into Kwun Tong Industrial Heritage Park. The Park will be a testament to the transformation of Kowloon East from an old industrial area into a new business centre as well as a link for the past, present and future. The TYS Playground can also be used to stage various arts performances or carnivals in future, turning this rare open space in the heart of Kwun Tong into a dynamic and vibrant public space within the business area.

- (b) The office building of the EKEO commenced operation in early June. Apart from basic office facilities, it also houses an information kiosk. Apart from serving as a venue for hosting public engagement activities and receiving visitors, the kiosk also accommodates exhibition panels, models and video programmes about Energizing Kowloon East and KTDA. In addition to providing an efficient workspace for the professional EKEO team in Kowloon East, the office building of the EKEO is a pilot project that showcases a new sustainable design concept with low carbon footprint. The building itself serves as a demonstration model for other temporary buildings in Hong Kong in the future, including construction site offices. As the office building is a temporary structure made of recyclable freight containers and other steel works, its size and height are restricted by the container module, making it only suitable for short and medium term use by small to medium sized teams. Given that the office building is a temporary structure and its design, materials and building services facilities are intended for short-term use only, its construction cost is lower than that of a general permanent government office building. That said, as the design concepts and standards for temporary structures and general government buildings are different, we should not draw a direct comparison between their construction unit costs.

On relocating government departments to new development areas, the Finance Committee of the Legislative Council has approved funding for the construction of Trade and Industry Tower in the KTDA in January 2012. The Tower will provide 33 000 sq m net operating floor area and will mainly be used for accommodating the government offices currently housed in the Trade and Industry Department Tower in Mong Kok as well as other leased private premises. Moreover, the three existing office buildings near the Wan Chai waterfront will also be relocated to the two reserved sites for new government office buildings at the KTDA. Moving government offices from prime locations to government office buildings in the KTDA will not only optimize use of land resources but also boost the development of Kowloon East.

Mainlanders Crossing Boundary Through Land Boundary Control Points in Hong Kong

15. **MR KAM NAI-WAI** (in Chinese): *President, regarding the issue of Mainlanders crossing the boundary through the land boundary control points (BCPs) in Hong Kong, will the Government inform this Council of:*

- (a) *the daily statistics on Mainlanders crossing the boundary through the land BCPs in Hong Kong in June and July in each of the past five years (set out in the table below);*

	June 2008		July 2008		June 2009		July 2009		June 2010		July 2010		June 2011		July 2011		June 2012	
Day	Exit	Entry	Exit	Entry	Exit	Entry	Exit	Entry	Exit	Entry	Exit	Entry	Exit	Entry	Exit	Entry	Exit	Entry
1																		
2																		
3																		
4																		
..... (the rest of the month)																		
31																		

- (b) *the number of pregnant Mainland women whose spouses are not permanent residents of Hong Kong (doubly non-permanent resident pregnant women) who have been intercepted by the Immigration*

Department (ImmD) at land BCPs for gate-crashing since the Chief Executive indicated in April this year that the quota of "doubly non-permanent resident pregnant women" to be admitted by private hospitals in 2013 would be zero; and

- (c) *the number of cross-boundary Mainlanders using the Automated Passenger Clearance System (e-Channel) since 2012 when the e-Channel service is available for use by enrolled Mainland frequent visitors; the eligibility criteria for inbound Mainland visitors to use the e-Channel service at present?*

SECRETARY FOR SECURITY (in Chinese): President, regarding the issue of Mainlanders crossing the boundary through the land BCPs in Hong Kong, my reply is as follows:

- (a) The passenger statistics for June and July in the past five years are set out in the table below. The ImmD does not have daily breakdown on passenger statistics.

<i>Year</i>	<i>Month</i>	<i>Departures</i>	<i>Arrivals</i>
2008	June	825 970	868 502
	July	1 163 603	1 275 096
2009	June	826 033	826 559
	July	1 119 424	1 172 482
2010	June	1 203 096	1 254 412
	July	1 519 093	1 621 875
2011	June	1 486 878	1 544 753
	July	2 036 829	2 171 536
2012	June	Figures not yet available	

- (b) From mid-April to 24 June 2012, the ImmD intercepted some 14 000 Mainland pregnant women at the land BCPs. Secondary examination was conducted on 8 000 of them, among which 1 000 were refused permission to land as they failed to meet immigration requirements.
- (c) Successfully enrolled Mainland visitors can enjoy the e-Channel service starting from 3 January this year. From 3 January to

31 May, 3 015 404 usages have been recorded. At present, the enrolment criteria for Mainland visitors for the e-Channel service are (i) aged 18 or above; (ii) holder of a valid Exit-Entry Permit with valid one-year multiple exit endorsement (including endorsement for visiting relatives (Tanqin), individual visit (Geren Luyou) or business visit (Shangwu)); (iii) has visited Hong Kong three times or more within the last 12 months immediately before the date of enrolment; and (iv) has no adverse record in Hong Kong.

Employment of Foreign Domestic Helpers

16. **MR PAUL TSE** (in Chinese): *President, it has been reported that an employer recruited a foreign domestic helper (FDH) through an employment agency (EA) but, upon the arrival of the FDH, the employer found that with the middle and ring fingers of the FDH's right hand missing and two of her toes badly crippled, the FDH was unable to wring towels, stand firmly or take care of the employer's mentally handicapped daughter. Another employer recruited, also through an EA, an FDH who claimed to have four years' experience in taking care of children and babies but, upon the arrival of that FDH, the employer found that as the FDH's left thumb and index finger were deformed, she could not hold teats and milk bottles steadily, nor did she know how to hold a baby properly, and after further questioning by the employer, the FDH admitted that she only had experience in taking care of the elderly people. There was another case in which the employer recruited an FDH through an EA, but on the day following her arrival, the FDH claimed that owing to important family business, she had to resign and return to her home country immediately, with airfares paid by the employer, yet, about two months later, the employer caught sight of the FDH who had just returned from Macao. Upon enquiries by the employer, the EA replied that the FDH had signed a contract with another new employer and would not return to her home country, and the employer suspected that the FDH and the EA had colluded to obtain service charges and airfares in a fraudulent way. In this connection, will the Government inform this Council:*

- (a) *whether it knows, how an employer who finds that the FDH employed by him does not meet EA's descriptions and suspects that he has been deceived by the EA, may quickly and effectively hold the EA responsible for the situation;*

- (b) *whether any Policy Bureau or government department is responsible for handling or co-ordinating the resolution of disputes similar to the aforesaid cases;*
- (c) *whether it knows the respective numbers of cases received by the Government and the Consumer Council (CC) in each of the past three years and so far this year involving complaints against FDHs not meeting EA's descriptions as well as complaints against EAs not fulfilling their responsibilities and being negligent; the average time required to handle each case; how these cases were handled with; among such cases, the number of EAs being "named and shamed" or blacklisted by CC;*
- (d) *of the number of cases in the past three years involving complaints against suspected collusion between FDHs and EAs to obtain service charges and airfares in a fraudulent way; the number of successful prosecutions and the details of the cases; and*
- (e) *of the policy and measures in place to protect the interests of FDH employers; whether it has reviewed the inadequacies of the existing policy and considered adopting new measures to enhance the protection for FDH employers; if it has, of the details; if not, the reasons for that; and whether it will conduct a review as soon as possible?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Government attaches great importance to monitoring the operation of EAs and ensuring their compliance with the law through licensing, inspection and complaint handling. All EAs (including those placing FDHs) must apply for a licence from the Labour Department (LD) before providing any placement service. Besides, an EA can only charge job seekers a commission of not more than 10% of the first month's salary received on successful placement. Operating an EA without a licence or charging job seekers a fee other than the prescribed commission is an offence which carries a maximum fine of \$50,000. Moreover, the Commissioner for Labour may refuse to issue or renew, or even revoke an EA licence on justifiable grounds.

My reply to the question raised by Mr Paul TSE is set out below:

- (a) If an employer suspects himself/herself to have been deceived by an EA, he/she may lodge a complaint to the LD which will conduct investigation promptly. The employer may also seek assistance from CC, and file civil claim against the EA for damages.
- (b) Upon receipt of complaint against EA's illegal act, the LD will conduct investigation and co-ordinate with relevant departments where necessary. Indeed, an EA licensee was recently sentenced to imprisonment for three years and eight months upon conviction of aiding and abetting an FDH for breach of condition of stay, conspiracy to defraud and conspiracy to make false representation to an Immigration Officer. As a result, the Commissioner for Labour immediately revoked the EA licence of the licensee.
- (c) and (d)

The number of complaints against EAs placing FDHs received by CC in the past three years is as follows:

<i>Year 2009</i>	<i>Year 2010</i>	<i>Year 2011</i>	<i>Jan to May 2012</i>
204 cases	214 cases	260 cases	113 cases

CC has no classification for cases involving FDHs not meeting EA's descriptions or suspected collusion between FDHs and EAs to obtain service charges and airfares in a fraudulent way. These are generally grouped under the category of "sales practices". For the complaints against EAs not fulfilling their responsibilities and being negligent, they are grouped under the category of "service quality". The number of respective complaints is as follows:

	<i>Year 2009</i>	<i>Year 2010</i>	<i>Year 2011</i>	<i>Jan to May 2012</i>
Sales practices	12 cases	10 cases	12 cases	7 cases
Service quality	168 cases	183 cases	201 cases	83 cases

CC will assist complainants and EAs to resolve their dispute by conciliation. The processing time is subject to the nature and

complexity of individual cases. Up till now, no EA placing FDHs has been named and hit out by CC.

In 2009, 2010, 2011 and the first five months of 2012, the LD received 69, 67, 73 and 30 complaints respectively against EAs placing FDHs. Most of the cases involved overcharging FDHs (54, 50, 54 and 18 cases year by year respectively). The LD will step up surprise inspections to EAs concerned and investigate if the EAs have breached the Employment Ordinance and Employment Agency Regulations. The time required for investigation may vary, depending on the nature and complexity of individual cases. Besides, the LD does not have classification nor prosecution figure for complaints involving FDHs not meeting EA's descriptions, EAs not fulfilling their responsibilities and being negligent, or suspected collusion between FDHs and EAs to obtain service charges and airfares in a fraudulent way.

- (e) It is the established principle of the government's labour policy to strike a reasonable balance between the interests of employers and employees. We will closely monitor the services provided by the EAs placing FDHs. Moreover, to strengthen protection for consumers, the Government has proposed to broaden the scope of application of the Trade Description Ordinance to cover trade descriptions in respect of services made in consumer transactions, including indications, direct or indirect, of the quality of the services. If the amendment bill is passed by the Legislative Council, any person who falls within the definition of trader will commit an offence if he applies a false description on the services that he provides to consumers.

Air Pollution Caused by Diesel Exhaust

17. **MR KAM NAI-WAI** (in Chinese): *President, it has been reported that the International Agency for Research on Cancer (IARC) under the World Health Organization (WHO) has raised the classification of exhaust from diesel engine exhaust (diesel exhaust) from Group 2A "probably carcinogenic" to Group 1 "carcinogenic", and pointed out that diesel exhaust is a cause of lung cancer and is associated with an increased risk of bladder cancer. IARC has also pointed*

out that apart from motor vehicles, trains, ships and power plants powered by diesel also emit harmful exhaust. Further, some environmental groups have queried that the 11 existing general air quality monitoring stations (AQMSs) are all located on rooftops and far away from roads and cannot reflect the roadside air pollution situation accurately. Such groups have also pointed out that the index of fine suspended particulates (PM 2.5) adopted by the Environmental Protection Department (EPD) is two times more lenient than the "ultimate objective" set down by WHO. In this connection, will the Government inform this Council:

- (a) whether it knows the existing numbers of buses of the fleets under each of the franchised bus companies, including hybrid, electric and supercapacitor buses, together with a breakdown of the buses by the emission standards with which they comply;
- (b) whether it knows the numbers of old buses replaced by each of the franchised bus companies in each of the past five years, the cost required to replace each bus and the total cost involved, as well as the estimated changes of such figures in the coming five years; details of the replacement schedules of old buses of the franchised companies; if schedules have not been determined, of the reasons for that;
- (c) of the quantities of the various air pollutants recorded on the roadside in each of the past five years, together with a breakdown by source of pollution (for example, franchised buses, commercial diesel vehicles and minibuses, and so on);
- (d) given that according to the website of the EPD, "the emission inventory of the Hong Kong Special Administrative Region [compiled annually by EPD] covers five major air pollutants", but the data set out on the website are figures of 2007, of the reasons why the data have not been updated by the authorities; when they will be updated; together with a breakdown of the relevant figures in the past five years by source of pollution (for example, public electricity generation, road transport, navigation, civil aviation, combustion of other fuels, non-combustion sources of pollution and machines, and so on);

- (e) *of the number of lung cancer and bladder cancer patients in Hong Kong in each of the past five years, and among them, the number of those who are new cases; whether it has compiled statistics on the number of cases involving cancer caused by diesel exhaust; if it has, of a breakdown by year and cancer; further, of the medical cost incurred for patients of these two types of cancer; and the respective numbers of deaths caused by these two types of cancer;*
- (f) *of the details, expenditure incurred, specific work schedule, current work progress and effectiveness of the various existing measures adopted by the authorities to reduce diesel exhaust and PM 2.5 at present; and*
- (g) *whether the authorities have planned to set up more AQMSs at present; if so, of the details and specific schedule, and whether the new AQMSs will be set up at locations closer to the road; if not, the reasons for that, and how the authorities can accurately and fully reflect the roadside air pollution situation?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, the Government is committed to improving roadside air quality and has been introducing measures to reduce diesel exhaust emissions. Key measures that we have implemented include promoting the replacement of diesel taxis and light buses with liquefied petroleum gas (LPG) vehicles, introducing an advanced smoke test and increasing the fixed penalty for smoky vehicles, requiring the installation of particulate filters or oxidation catalyst in pre-Euro diesel vehicles, tightening the motor diesel fuel specifications to Euro V, as well as further tightening the emission standards for newly registered heavy duty diesel vehicles to Euro V in June this year. In addition, the Government has since 2007 provided grants to encourage vehicle owners to use more environment-friendly vehicles. These include grants for the early replacement of pre-Euro, Euro I and Euro II diesel commercial vehicles, and the provision of first registration tax concession for environment-friendly vehicles. To further reduce the pollution caused by diesel exhaust, we will mandate control on emissions from non-road mobile machinery and examine how to reduce emissions from vessels.

The above measures have borne fruits. The levels of respirable suspended particulates (PM 10) and fine suspended particulates (PM 2.5) at local roadsides

in 2011 dropped by 33% and 28% respectively as compared with 1999. In late 2011, the Government completed the installation of PM 2.5 monitors in all 14 AQMSs in Hong Kong, including three roadside monitoring stations located at busy traffic corridors in urban areas. We have released online the PM 2.5 data of the 14 AQMSs since 8 March this year.

Below is the reply to Mr KAM Nai-wai's question:

- (a) A breakdown of franchised buses according to emission standards as at end April 2012 is in Table 1 of the Annex. Currently, there are no hybrid, electric or supercapacitor buses in the franchised bus fleet.

Table 1: Number of buses owned by the franchised bus companies (classified by emission standards) (as at end April 2012)

	<i>The Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited (Franchise 1)*</i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>Citybus Limited (Franchise 2)*</i>	<i>New Lantao Bus Company (1973) Limited</i>	<i>Total</i>
Pre-Euro	1 [#]	0	0	0	0	0	1
Euro I	812	234	69	0	4	0	1 119
Euro II	1 523	370	481	93	165	8	2 640
Euro III	1 098	10	75	18	0	67	1 268
Euro IV	107	28	38	32	0	15	220
Euro V	365	117	44	23	2	14	565
Total	3 906	759	707	166	171	104	5 813

Notes:

The last Kowloon Motor Bus' Pre-Euro bus retired from service in May 2012.

* "Citybus Limited (Franchise 1)" refers to the franchise held by the Citybus Limited for the provision of Hong Kong Island and cross-harbour bus services, while "Citybus (Franchise 2)" refers to the franchise held by the same company for the provision of North Lantau and Chek Lap Kok Airport bus services.

- (b) Between 2007 and 2011, the franchised bus companies purchased 821 buses and phased out 870 old buses in total. At present, a new double-deck bus and a new single-deck bus cost about \$3 million and \$2 million respectively. However, the actual cost will vary according to factors such as fluctuation in market prices, the

numbers and types of buses purchased, foreign exchange rates, and so on.

According to the five-year forward planning programmes submitted by the franchised bus companies to the Transport Department, it is estimated that a total of 3 073 old buses will be phased out from 2012 to 2016 and 3 070 new buses will be purchased in the same period. This replacement schedule is drawn up in the light of the age profile of the existing franchised bus fleet and the commitment of the franchised bus companies to operate their services with buses under the age of 18. The actual number of buses to be replaced may vary, subject to the annual bus route development programme and the operating environment of bus companies, and so on.

(c) and (d)

The EPD has been keeping abreast of international developments in the methodologies in estimating emissions from pollution sources, and conducting local studies and measurements with a view to adopting the latest methodologies and techniques for improving the accuracy of the emission estimates. For instance, after reviewing the assessment methods adopted in recent years by the United States Environmental Protection Agency and the Los Angeles Port in preparing vessel emission inventories, we commissioned a local university to collect data on movements of local vessels for a detailed assessment of vessel emissions within the boundary of Hong Kong. In addition, we have introduced the latest portable emission measuring system used in the United States and European countries to measure the emissions from different types of vehicles in operation. After concluding the findings of these studies and validating the data, we shall publish the latest emission data.

(e) Based on the data kept by the Hong Kong Cancer Registry of the Hospital Authority (HA)⁽¹⁾, we have tabulated the number of cases of and deaths caused by lung cancer and bladder cancer in each year from 2005 to 2009 in Table 2 and Table 3 of the Annex respectively.

(1) The data kept by the Hong Kong Cancer Registry include cancer cases known to the HA and the private medical sector.

The HA does not keep the number of new patients or information on the medical cost incurred by patients of these two types of cancer and whether air pollution by diesel exhaust contributed to such cases. According to data of the Department of Health, smoking is the major cause of lung cancer.

Table 2: Number of cases of and deaths caused by lung cancer from 2005 to 2009 in Hong Kong

<i>Year</i>	<i>Number of cases of lung cancer</i>	<i>Number of deaths caused by lung cancer</i>
2005	4 135	3 686
2006	4 233	3 531
2007	4 261	3 648
2008	4 236	3 497
2009	4 365	3 692

Table 3: Number of cases of and deaths caused by bladder cancer from 2005 to 2009 in Hong Kong

<i>Year</i>	<i>Number of cases of bladder cancer</i>	<i>Number of deaths caused by bladder cancer</i>
2005	529	207
2006	451	182
2007	477	170
2008	374	201
2009	372	197

(f) Regarding the reduction of diesel exhaust and PM 2.5 emissions, we have introduced a package of measures targeting different sources of pollution, which are as follows:

- mandated in 1998 newly registered diesel private cars to be at an emission level comparable with that of petrol private cars. Newly registered vehicles (except diesel light goods vehicles of design weight not exceeding 3.5 tonnes) must comply with the Euro V emission standards since 1 June 2012 and diesel light goods vehicles of design weight not exceeding 3.5 tonnes will have to comply with that standard starting from 31 December 2012;

- introduced an advanced smoke test in 1999 to enhance the maintenance conditions of diesel vehicles for reducing emissions;
- incentivized vehicle owners to replace their diesel taxis and light buses with LPG taxis and light buses and enacted in 2001 legislation to require newly registered taxis to be LPG or petrol vehicles;
- incentivized vehicle owners to install in their pre-Euro diesel commercial vehicles particulate reduction devices and mandated in 2003 the installation of such devices as a prerequisite for vehicle licence renewal;
- launched one-off grant schemes in 2007 and 2010 to encourage the owners of pre-Euro, Euro I and Euro II diesel commercial vehicles respectively to replace their vehicles with those that comply with the prevailing emission standards. The number of pre-Euro and Euro I diesel commercial vehicles has dropped from about 59 000 in 2007 to about 30 000 at present (a drop by 49%);
- starting from 14 July 2008, the duty for Euro V diesel was waived entirely to further encourage drivers to use this more environment-friendly fuel. Since July 2010, the fuel specifications for Euro V vehicles have been adopted as the statutory fuel standards;
- launched in 2008 a concession scheme to reduce the first registration tax for environment-friendly commercial vehicles to encourage the vehicle owners to use such vehicles; and
- started in December 2011 the enforcement of the Motor Vehicle Idling (Fixed Penalty) Ordinance requiring drivers to switch off the engines whilst awaiting.

To implement the new Air Quality Objectives, we will implement as soon as possible 22 air quality improvement measures. Those measures targeting diesel exhaust include the following:

- set up the \$300 million Pilot Green Transport Fund in March 2011 to encourage the transport sector to introduce more green and innovative transport technologies and to use low-emission and energy efficient transportation;
- engaged franchised bus companies to test out retrofitting Euro II and III franchised buses with selective catalytic reduction devices, which could reduce nitrogen oxides emissions by some 60%. Subject to satisfactory trial results, the Government will fund the retrofit of the devices on all Euro II and Euro II franchised buses;
- adopted an ultimate policy objective to have zero emission buses running in Hong Kong. To this end, the Government has proposed to the Finance Committee of Legislative Council to earmark \$180 million for franchised bus companies to purchase 36 electric buses for trial runs. Separately, the Committee allocated \$33 million in April 2011 to fund the full cost of procuring six hybrid buses for trial by franchised bus companies along busy corridors;
- to bring emissions of air pollutants from non-road mobile machinery under statutory control; and
- to reduce emissions from vessels. This includes the new initiative to encourage ocean going vessels to use low sulphur fuel when at berth in Hong Kong waters through reducing by half the port facilities and light dues. This initiative will span three years. We will study in collaboration with the relevant trades how to improve the quality of vessel fuels sold locally to reduce emissions from vessels.

In 2012-2013, the Government allocated a total of \$626.7 million to implement various measures to improve air pollution.

- (g) In setting up the air quality monitoring network, the EPD aims mainly to collect data for assessing the impact of air pollution on the public, facilitate the formulation of an air quality management strategy and evaluate its effectiveness. Apart from adopting the

internationally recognized guidelines (such as the guidelines of the United States Environmental Protection Agency) for the design and site selection for the monitoring stations, we also follow strictly a quality control and assurance system to ensure that the data on air quality are highly accurate, reliable and representative. To collect representative air quality data, we will take into account various factors in determining the locations of the AQMSs, namely, spatial distribution of AQMSs in the network, coverage of different types of development areas (such as urban areas, new towns and rural areas), distribution of local population, traffic flow and distribution of sources of pollution, representativeness in terms of the local air quality, topography and meteorology.

Hong Kong is a small and highly populous place, with economic activities being mainly commercial and financial. In urban areas and new towns, the air pollutants come mainly from vehicle emissions. Given the similar sources of pollution, the levels of air pollution in different districts are mainly determined by their respective types and density of development. The current air quality monitoring network, comprising 11 general AQMSs, covers the major areas of Hong Kong from east to west and from south to north. As for land uses, they cover different development categories such as residential, residential/commercial, residential/commercial/industrial, rural and urban areas. As such, the current general air quality monitoring network can effectively and comprehensively reflect air pollution in districts with different types of development in Hong Kong.

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

On the whole, the current monitoring network can adequately reflect the level of air quality in Hong Kong and support our formulation of air management strategy and measures while providing the public with representative data on air quality. At present, we have no plan to increase the number of AQMSs, but we will review from time to time the situation and the need according to the established mechanism.

Provision of Care Services for Elderly

18. **MR CHEUNG KWOK-CHE** (in Chinese): *President, some fellow workers in the social welfare sector (fellow workers) have indicated that while the population in Hong Kong is ageing, family carers (carers) of frail elderly shoulder an increasingly heavy responsibility, and the lack of comprehensive ancillary support for the elderly care policy of ageing in place introduced by the Government exerts enormous psychological pressure on the carers and degrades their quality of living. In this connection, will the Government inform this Council:*

- (a) *given that some fellow workers in district elderly community centres have reflected that because of the heavy responsibility in taking care of frail elderly, about 70% of the clients in the counselling cases are carers, whether it knows the number of carers in Hong Kong at present; if such data is not available, whether it will collect the data in respect of such carers in the future for reference; if it will, of the details; if not, the reasons for that;*
- (b) *given that the intent of the authorities in introducing Day Respite Service for Elders (Day Respite Service) is to support carers who provide long-term care for elderly people and share some of their responsibilities, as well as to give them an opportunity to take a short break when necessary, but there are only 109 service places of Day Respite Service in Hong Kong, of the average waiting time for such service and the numbers of persons waiting for such service in various districts at present; of the number of additional service places provided in each of the past five years; given that some*

elderly people have not been given Day Respite Service after waiting for an extended period of time, whether the authorities will provide counselling service for the carers suffering from inadequate rest and mental stress because they have to take care of these elderly people; if they will, of the details; if not, the reasons for that;

- (c) *given that the Residential Respite Service for Elders may also relieve the pressure on carers, of the numbers of persons waiting for Residential Respite Service for Elders in various districts at present; the average waiting time for such service in various districts; the numbers of additional service places provided in various districts in each of the past five years;*
- (d) *given that some fellow workers have reflected that the Carer Support Service introduced by the Social Welfare Department (SWD) is ineffective in that when carers attend such skill training courses and participate in the group or social activities, the frail elderly are left at home unattended, whether the authorities will implement ancillary supporting measures in order to provide effective support service for carers; if they will, of the details; if not, the reasons for that; and*
- (e) *given that the Government provides home-based Enhanced Home and Community Care Service and Integrated Home Care Services (IHCS) for frail elderly, of the respective numbers of persons who applied for and received such home-based services in various districts in each of the past five years; in respect of the persons who received such home-based services last year, of the waiting time for such services (and set out the breakdown in the tables below)?*

<i>Services</i>	<i>Number of persons who applied for home-based services</i>				
	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<i>Home-based Enhanced Home and Community Care Service</i>					
<i>Home-based IHCS</i>					

<i>Services</i>	<i>Number of persons who received home-based services</i>				
	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<i>Home-based Enhanced Home and Community Care Service</i>					
<i>Home-based IHCS</i>					

<i>Waiting time of persons who received home-based services last year</i>					
<i>Services</i>	<i>Number of persons</i>				
	<i>waited for one month or less</i>	<i>waited for two months</i>	<i>waited for three months</i>	<i>waited for four months</i>	<i>waited for five months or more</i>
<i>Home-based Enhanced Home and Community Care Service</i>					
<i>Home-based IHCS</i>					

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

- (a) Elders who reside in the community often require different levels of assistance and care from their family or others. As such assistance and care arrangement may change from time to time, it is difficult for the Administration to define and identify carers in Hong Kong as well as maintain any data concerning them.
- (b) and (c)

Day Respite Service for the Elders is provided by 63 subvented day care centres/units for the elderly across the territory. The SWD has designated 109 day respite places in these centres/units. If any individual centre/unit has casual vacancy available in their day care service, the centre/unit concerned can also make use of the casual vacancy to provide respite service. During the five-year period from 2007-2008 to 2011-2012, the SWD has provided an additional 50 designated day respite places. The SWD will continue to designate day respite places in the newly established subvented centres/units.

Regarding residential respite service, apart from subvented residential care homes for the elderly (RCHEs) which provide 11 residential respite places designated by the SWD, every nursing home, subvented RCHE and contract RCHE has been utilizing its subsidized places which are casually vacant to provide residential respite service. Starting from March 2012, the SWD has also made use of the subsidized places which are casually vacant in private RCHEs under the Enhanced Bought Place Scheme to provide additional residential respite places.

As applications for day and residential respite services are made directly to the service units, or referred by other units, they do not come under the central waiting mechanism of the SWD. As a result, the SWD does not have the number of people waiting for such services nor the waiting time. Nevertheless, the SWD checks with the service providers from time to time about the usage of respite services as service planning reference.

We understand that quite a number of carers are under pressure. If they need any counselling service, they can seek help from District Elderly Community Centres (DECCs) and Integrated Family Service Centres/Integrated Services Centres.

- (d) In addition to counselling service, the SWD offers other support services to carers through DECCs, Neighbourhood Elderly Centres, Home Care Service Teams, Day Care Centres/Units for the elderly, and so on, throughout the territory. These support services include provision of information, assistance in forming mutual-assistance groups, arrangement for demonstration and loan of rehabilitation equipment, and so on. In 2008, the Government also increased the number of social workers in each DECC to enhance counseling and referral services to the elders in need as well as their carers.

In addition, the SWD has introduced "District-based Scheme on Carer Training" (the Scheme) to provide basic knowledge of elderly care so as to enhance the caring capabilities of the carers. As of March 2012, there are 119 elderly centres participating in the Scheme and 8 600 carers have been trained successfully.

If carers experience any difficulties in taking care of their elders at home when they participate in these training and activities, they may seek assistance from social workers at elderly centres.

- (e) From the period 2007-2008 to 2011-2012, the number of persons who applied for and received the Enhanced Home and Community Care Services (EHCCS) and IHCS (Frail Cases) are as follows:

<i>Year</i>	<i>Number of persons</i>	<i>Number of persons who applied for services</i>	<i>Number of persons who received services</i>
2007-2008		2 243	5 062
2008-2009		2 736	6 138
2009-2010		2 934	6 114
2010-2011		3 207	5 694
2011-2012		4 179	7 295

Note:

"Number of persons who received services" refers to the total number of persons who have received either of the above services during each year.

As of end-May 2012, there were a total of 493 persons waiting for EHCCS and IHCS (Frail Cases). The current average waiting time for these services is about two months, which is shorter than the average waiting time as at end-May 2011 (about five months). As the SWD will provide an additional 500 EHCCS places in 2012-2013, it is believed that the wait-listing situation could be further relieved.

Handling of Water Main Burst Incidents

19. **MR CHAN KAM-LAM** (in Chinese): *President, recently, a number of water main burst incidents occurred in Kowloon East, and on each occasion the traffic was seriously affected and the residents were inconvenienced. These incidents included the water main burst incident in Ping Shek Estate on 3 May this year, which led to the suspension of water supply to three blocks until 2 am on the following day before water supply was resumed; on 15 June this year, a*

water main burst occurred at the entrance of the Jordan Valley Swimming Pool, which led to the complete closure of a section of the traffic lane leading from Choi Ha Road in Ngau Tau Kok towards Choi Ying Estate; and on 21 May this year, an underground water main burst occurred near Rhythm Garden, which led to serious disruption to the traffic at Prince Edward Road. In this connection, will the Government inform this Council:

- (a) of the respective numbers of reports of water main bursts (including fresh water pipes and flush water pipes) in Kwun Tong and Wong Tai Sin Districts received by the Water Supplies Department (WSD) in each of the past three years; among such incidents, of the number of those caused by aged water mains or other aged parts;*
- (b) of the details of the notification mechanism adopted by the WSD with regard to the handling of water main burst incidents at present; of the average time required for maintenance staff to isolate the burst mains; whether the entire sections of the water mains concerned will be replaced subsequently; and*
- (c) of the details and progress of the regular inspections of underground water mains, as well as the maintenance and replacement works of aged water mains carried out by the authorities at present?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the water distribution network of Hong Kong has been developing according to demand. The system is massive and complex, measuring some 7 800 km in total length. The hilly terrain of Hong Kong makes the water supply pressure relatively high. Service reservoirs are often built at high level for the optimal use of precious land resources. The high water pressure together with ground movements and external disturbances make bursts and leaks in our aged water distribution network inevitable. We fully understand that the temporary suspension of water supply and, in some cases, the associated traffic disruption would cause inconvenience to the public. To tackle the problem, the WSD is adopting a multi-pronged approach, including proactive burst prevention by leakage detection, replacement and rehabilitation of aged water mains under the Water

Mains Replacement and Rehabilitation (R&R) Programme and implementation of water pressure management.

With the completion of some parts of the R&R Programme and the implementation of leakage control and pressure management measures, the number of water main burst incidents has dropped from the peak of about 2 500 in 2000-2001 to about 320 in 2011-2012. The water main leakage rate has also declined from 25% in 2001 to 19% in 2011. It is anticipated that the leakage rate will further decrease to 15% upon completion of the R&R Programme by end 2015.

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

- (a) The following table shows the numbers of water main burst incidents in the districts of Kwun Tong and Wong Tai Sin in the past three years:

<i>Year</i>	<i>Kwun Tong District</i>			<i>Wong Tai Sin District</i>		
	<i>Fresh water</i>	<i>Salt water</i>	<i>Total</i>	<i>Fresh water</i>	<i>Salt water</i>	<i>Total</i>
2009-2010	33	129	162	12	37	49
2010-2011	39	61	100	4	10	14
2011-2012	6	20	26	5	14	19

Burst of water main is commonly due to a confluence of various factors. The abovementioned water main burst incidents were caused by aged water pipes or parts, ground movements and external disturbances.

- (b) Upon receipt of a main burst report, the WSD's designated teams will immediately set off for the site to isolate the concerned water mains for carrying out repair works. Should the incident affect the traffic around the site, the WSD will liaise with the concerned government departments including the police, Transport Department and Highways Department to make necessary traffic diversion arrangement to facilitate the repair works. If the repair works would affect other public utilities, the WSD will also liaise with relevant utility undertakers for protecting their facilities.

The public can obtain the latest information about water main burst incidents through the WSD's Customer and Telephone Enquiry Centre (CTEC) hotline. For an incident affecting the water supply to a large numbers of consumers, the WSD will upload notifications on to the department's webpage. In addition, radio announcements and press releases will be made for serious incidents.

Staff of CTEC will also upload information of the water suspension arrangements implemented for emergencies to the Interactive Voice Recognition System of the WSD's hotline and the department's webpage for reference of customers. The information include the start time and anticipated end time of water suspension; areas affected; type of water supply affected; causes of suspension; as well as locations of standpipes installed, water tanks and water wagons. Staff of CTEC will also maintain close communication with the personnel on site to keep abreast of the latest developments of the incidents.

In the past three years, that is, in 2009-2010, 2010-2011 and 2011-2012, the average time taken to isolate the burst mains after receipt of main burst reports by the WSD were about 1.5, 2.1 and 1.5 hours respectively.

If a burst is found in a water mains, the WSD will isolate the water mains concerned and carry out emergency repairs of the water mains and road surface as soon as possible for resuming the water supply and traffic to normal. After completion of the emergency repair works, the WSD will look into the causes of the bursts and, if necessary, replace or rehabilitate the whole section of the problematic mains.

The WSD regularly reviews the overall situation of water mains bursting and follows up the progress of the R&R works to co-ordinate the prioritization of replacement and rehabilitation works for specific water mains. Where necessary, water mains that are not included by the R&R Programme might be injected into the current or upcoming R&R works contracts to accord a higher priority for the replacement and rehabilitation to the sections of

problematic water mains. If timely adjustment to the works under the R&R Programme is not possible, the WSD will consider deploying district resources for early commencement of the R&R works for the sections of problematic water mains.

- (c) As mentioned above, the WSD is adopting a multi-pronged approach to tackle the problem of main bursts and leaks, including proactive burst prevention by leakage detection, replacement and rehabilitation of aged water mains under the R&R Programme and implementation of pressure management.

The WSD has enhanced leakage detection as a preventive measure to reduce main burst incidents. With the advances in technology, the WSD has migrated from the traditional waste detection based leakage detection⁽¹⁾ to the proactive burst prevention based leakage detection⁽²⁾. GSM noise loggers with wireless data transmission capability have been installed at selected pipe sections for continuous monitoring of the flow condition and to provide alerts about possible leakage spots. The WSD will keep pace with the technology advances around the world and explore new leakage detection technology to strengthen its leak detection capability. The WSD is now trying out performance-based provisions in leakage detection contracts to incentivize contractors to take more positive steps and be more accurate in locating leaks. The initial results are satisfactory.

Water main bursts and leaks are closely correlated to the water pressure in the mains. As pressure management is a proven means to reduce water main bursts and leakage, the WSD has been actively implementing pressure management works in suitable locations over the whole territory.

- (1) Waste detection based leakage detection is the detection of water loss in a selected water supply zone with follow-up search for leakage spots within the supply zone.
- (2) Proactive burst preventive based leakage detection is the direct checking of water mains for locating leakage points on the water mains. Critical water main sections are often closely monitored under such an approach. The more advanced technology also includes an appraisal of the general condition of the water mains inspected.

The R&R Programme is a key element in the reduction of water main burst incidents and active leakage control. It aims at replacing or rehabilitating 3 000 km of aged water mains of the water distribution network. It was originally planned for implementation in four stages and for completion within a 20-year period by the end of 2020. To bring about earlier improvement to the supply system and minimize inconvenience to the public due to frequent water main bursts, we decided in 2005 to compress the R&R Programme from a 20-year to a 15-year period, targeting for early completion by the end of 2015.

The staged implementation of the R&R Programme has made good progress. Works under stages 1 and 2 have been completed while works under stages 3 and 4 are actively underway. As at the end of May 2012, a total of about 1 820 km of water mains have been replaced and rehabilitated.

Land Use in Hong Kong

20. **DR PAN PEY-CHYOU** (in Chinese): *President, recently, the issue of land supply has aroused wide public concern, and the Government has proposed 25 sites for reclamation outside Victoria Harbour and conducted public consultation which has triggered much discussion in the community. In this connection, will the Government inform this Council:*

- (a) *of the respective hectares of various land classes (residential, commercial, industrial, government, institution or community (G/IC), open space, transportation, other urban or built-up land, and agriculture) in various districts, with a breakdown by the 18 District Council districts (the 18 districts);*
- (b) *of the respective hectares of land lots of different land classes (residential, commercial, industrial, G/IC, and open space) which are idle at present, with a breakdown by the 18 districts;*
- (c) *regarding the idle land lots mentioned in part (b), of their average idling period so far; the respective hectares of land lots with an*

idling period of three years or more and five years or more, together with their distribution;

- (d) of the additional hectares of residential sites generated by the Government through land use alteration in each of the past three years, together with the districts in which they are located; and*
- (e) in respect of sites with concrete development plans as well as local community and District Council support for their development and planning (for example, the G/IC site at the junction of Siu Sai Wan Road and Harmony Road), whether the authorities will set a development timeframe for those sites to avoid their being left idle for a prolonged period?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Government is committed to adopting a multi-pronged approach to expand land resources with a view to building up a land reserve to meet the land demand for housing and other social and economic developments. In this connection, we have adopted a flexible mix of land supply options in order to provide adequate usable land. The 2011-2012 Policy Address has put forward six measures for expanding housing land resources in addition to expanding land resources through new development areas.

In November 2011, the Government launched the Stage 1 Public Engagement exercise on "Enhancing Land Supply Strategy" for the purpose of consulting the public on the study of reclamation on an appropriate scale outside Victoria Harbour and the use of rock caverns. In January 2012, the Civil Engineering and Development Department announced 25 potential reclamation sites as a means to facilitate public discussion on the site selection criteria on a more substantive basis. The Government has yet to decide whether to carry out reclamation outside Victoria Harbour and the criteria to be adopted in selecting sites for reclamation. The potential types and locations of reclamation can also be revised in light of public views.

We appreciate the importance of optimizing land use. Most of the land planned for public and community facilities is zoned "G/IC". The Government

has regularly reviewed the sites reserved or currently used for G/IC purposes so as to prevent under-utilization of land which has been reserved for a long time and yet has no specific development plans. If the originally proposed facilities are no longer needed or they can be co-located with other G/IC facilities, the reserved site could be released and rezoned for other suitable uses, including housing development.

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

(a) A breakdown showing the areas of land under different land use zonings in the 18 districts is at Annex 1.

(b) and (c)

We do not have information on undeveloped private land. As regards Government land with planned uses but has yet to be leased or allocated, we have, based on the land boundary records of the Lands Department's Land Information System and the outline zoning plans (OZPs) of the Planning Department, compiled Annex 2 which contains a breakdown of the land area by land uses and 18 districts. Some of the land on the list is among the land being studied, or had been studied, under various planning and engineering studies by the Planning Department. We do not have information on the period for which the sites concerned have been left vacant.

(d) OZP amendments between January 2009 and end-June 2012 resulted in an additional 75.6 hectares of housing land. Detailed classification of the land is set out at Annex 3. While the land concerned is already zoned for housing purposes, there are still a number of problems to address (for example, land ownership being fragmented, land lease needs modification, or land acquisition required for public purposes, and so on) before the land could be used for housing development.

(e) Under normal circumstances, for sites which have been zoned for G/IC and "Open Space", the relevant government bureaux/departments will determine the schedules for developing

such facilities having regard to the demand for such facilities, the demographic changes within the districts and the funding resources required for construction and operation. To optimize land uses, where appropriate, District Lands Offices will lease out sites for temporary uses by way of short-term tenancy if those sites have planned uses but construction works have yet to commence.

For Government land which have been earmarked for development (such as residential and commercial sites), we will, as a matter of practice, include them in the year's application list when they are ready for development and will take a proactive and aggressive approach to sell some of them in accordance with the land supply policy and the land sale programme of the year. For land which has been sold, developers are required to complete the developments within the building covenant period as set out in the lease conditions in order to prevent land from being hoarded or left vacant for a long time.

Annex 1

Land Area of Major Land Use Zonings by District Council (in hectares)
(as at end-June 2012)

<i>District Council</i>	<i>Residential⁽²⁾</i>	<i>Commercial⁽³⁾</i>	<i>Industrial⁽⁴⁾</i>	<i>G/IC</i>	<i>Open Space</i>	<i>Agriculture</i>	<i>Transportation and Road⁽⁵⁾</i>	<i>Other Urban or Built-up Land⁽⁶⁾</i>	<i>Other Uses⁽⁷⁾</i>	<i>Total</i>
Central and Western	203.1	64.4	0.6	111.9	67.3	-	148.6	20.7	624.5	1 241.1
Wan Chai	148.6	40.5	-	94.4	36.9	-	105.7	56.9	520.8	1 003.8
Eastern	253.1	22.3	7.3	169.0	92.4	-	165.7	69.4	524.7	1 303.9
Southern	359.1	13.1	9.9	284.3	153.2	-	156.2	180.7	1 992.0	3 148.5
Yau Tsim Mong	116.4	88.0	1.8	100.9	71.4	-	252.8	63.7	72.4	767.4
Sham Shui Po	224.2	22.8	10.4	150.5	91.9	-	193.6	111.2	113.0	917.6
Kowloon City	314.5	45.4	-	188.7	169.9	-	214.6	17.6	48.4	999.1
Wong Tai Sin	227.3	11.9	-	90.9	64.6	-	90.1	12.4	201.1	698.3
Kwun Tong	373.3	83.4	-	137.2	149.6	-	219.4	11.8	151.9	1 126.6
Kwai Tsing	309.6	51.6	210.7	166.5	177.9	-	228.7	464.6	683.5	2 293.1
Tsuen Wan	296.4	29.5	22.8	145.6	279.3	-	302.7	12.0	1 346.3	2 434.6
Tuen Mun	773.4	7.2	110.2	381.3	117.6	-	189.3	229.3	1 496.6	3 304.9
Yuen Long	2 466.6	14.2	515.7	204.9	147.0	1 102.4	492.3	33.9	5 568.8	10 545.8
North	734.5	12.1	275.0	259.4	60.1	1 681.8	175.6	313.0	4 001.4	7 512.9
Tai Po	801.3	10.3	85.7	252.1	138.0	371.8	241.6	20.7	2 315.9	4 237.4

<i>District Council</i>	<i>Residential⁽²⁾</i>	<i>Commercial⁽³⁾</i>	<i>Industrial⁽⁴⁾</i>	<i>G/IC</i>	<i>Open Space</i>	<i>Agriculture</i>	<i>Transportation and Road⁽⁵⁾</i>	<i>Other Urban or Built-up Land⁽⁶⁾</i>	<i>Other Uses⁽⁷⁾</i>	<i>Total</i>
Sha Tin	836.0	39.9	52.1	349.8	304.3	28.1	350.1	126.1	1 575.6	3 662.0
Sai Kung	769.5	17.0	175.9	374.0	201.9	31.7	213.3	134.1	3 071.5	4 988.9
Islands	552.6	229.5	0.8	215.3	264.1	65.1	1 258.1	628.9	5 498.2	8 712.6
Total	9 759.5	803.1	1 478.9	3 676.7	2 587.4	3 280.9	4 998.4	2 507.0	29 806.6	58 898.5

Notes:

- (1) This table summaries the area of all land covered by statutory town plans, that is, OZPs and Development Permission Area Plans, while land not covered by statutory plan is not included;
- (2) "Residential" includes land zoned from "Residential (Group A)" to "Residential (Group E)", "Village Type Development", and "Comprehensive Development Area" designated for residential use, and so on;
- (3) "Commercial" includes land zoned "Commercial", "Other Specified Use" (OU) annotated "Business" and "Comprehensive Development Area" designated for commercial use, and so on;
- (4) "Industrial " includes land zoned "Industrial", "Open Storage", "OU" annotated "Industrial Estate" and "Comprehensive Development Area" designated for industrial use, and so on;
- (5) "Transportation and Road" includes land designated for road, railway and airport uses;
- (6) "Other Urban or Built-up Land" includes land zoned "OU" annotated such as "Container Terminal", "Cable Car Terminal", "Boundary Crossing Facilities", "Military Use", "Electricity Substation", "Race Course", and so on;
- (7) "Other Land Uses" includes land zoned "Green Belt", "Conservation Area", "Coastal Protection Area", "Country Park", "Site of Special Scientific Interest", "Recreation" and "OU" annotated "Rural Use" or "Comprehensive Development and Wetland Enhancement Area", and so on

Annex 2

Vacant Government Land (as at end-June 2012)

<i>District Council District/Land Use</i>	<i>Area of Vacant Government Land (Hectares)</i>
<i>Central and Western</i>	
Residential	19.7
Commercial	4.3
Industrial	0.0
G/IC	15.9
Open Space	7.8
<i>Wan Chai</i>	
Residential	17.8
Commercial	2.3
G/IC	5.3
Open Space	4.2
<i>Eastern</i>	
Residential	11.7
Commercial	0.2
Industrial	0.6
G/IC	25.9
Open Space	20.2

<i>District Council District/Land Use</i>	<i>Area of Vacant Government Land (Hectares)</i>
<i>Southern</i>	
Residential	46.5
Commercial	0.6
Industrial	1.6
G/IC	47.2
Open Space	19.4
<i>Yau Tsim Mong</i>	
Residential	6.0
Commercial	3.7
Industrial	0.0
G/IC	7.3
Open Space	13.0
<i>Sham Shui Po</i>	
Residential	19.5
Commercial	0.1
Industrial	0.5
G/IC	22.2
Open Space	20.6
<i>Kowloon City</i>	
Residential	20.4
Commercial	2.3
G/IC	13.3
Open Space	57.4
<i>Wong Tai Sin</i>	
Residential	12.8
Commercial	0.0
G/IC	13.1
Open Space	9.1
<i>Kwun Tong</i>	
Residential	46.3
Commercial	0.5
G/IC	23.8
Open Space	18.1
<i>Kwai Tsing</i>	
Residential	54.4
Commercial	0.9
Industrial	26.4
G/IC	44.5
Open Space	71.1

<i>District Council District/Land Use</i>	<i>Area of Vacant Government Land (Hectares)</i>
<i>Tsuen Wan</i>	
Residential	81.5
Commercial	1.7
Industrial	3.7
G/IC	39.9
Open Space	84.4
<i>Tuen Mun</i>	
Residential	208.6
Commercial	0.7
Industrial	15.0
G/IC	114.0
Open Space	41.2
<i>Yuen Long</i>	
Residential	490.9
Commercial	1.5
Industrial	125.5
G/IC	53.7
Open Space	51.1
<i>Northern</i>	
Residential	189.5
Commercial	0.0
Industrial	105.9
G/IC	65.9
Open Space	26.5
<i>Tai Po</i>	
Residential	192.4
Commercial	0.0
Industrial	0.9
G/IC	84.5
Open Space	22.3
<i>Sha Tin</i>	
Residential	295.0
Commercial	2.8
Industrial	18.0
G/IC	72.3
Open Space	195.7
<i>Sai Kung</i>	
Residential	254.5
Commercial	0.2
Industrial	0.2
G/IC	78.3
Open Space	28.0

<i>District Council District/Land Use</i>	<i>Area of Vacant Government Land (Hectares)</i>
<i>Islands</i>	
Residential	186.2
Commercial	2.8
Industrial	0.0
G/IC	50.6
Open Space	52.8

Notes:

- "Residential" includes land zoned from "Residential (A)" to "Residential (E)", "Commercial/Residential" and "Village Type Development"
- "Commercial" includes land zoned "Commercial"
- "Industrial" includes land zoned "Industrial", "Industrial (D)" and "Open Storage"
- "G/IC" includes land zoned "G/IC"
- "Open Space" includes land zoned "Open Space"

Annex 3

Area of Land Rezoned for Housing Use
Through Amendment to OZP
(From January 2009 to end-June 2012)

Zoning	Year					Total (hectares)
	2009	2010	2011	2012 (up to end-June)		
Comprehensive Development Area	0.7	27.5	0.2	5.0	33.5	
Residential (Group A)	3.7	0.7	6.4	0.2	11.0	
Residential (Group B)	0.4	-	1.6	0.8	2.7	
Residential (Group C)	-	16.5	4.1	-	20.6	
Residential (Group D)	-	-	-	-	0.0	
Residential (Group E)	3.4	-	4.1	-	7.5	
Others	-	0.3	-	-	0.3	
Total (hectares)	8.2	45.0	16.4	6.0	75.6	

Notes:

- (1) Figures rounded to one decimal place. Due to rounding error, the summation of each category may be different from the total figure.
- (2) A piece of land rezoned "OUs" annotated "Commercial/Residential Development with Public Car Park and Public Transport Interchange" is categorized as "Others".

PRESIDENT (in Cantonese): We now suspend the meeting and resume at 3 pm.

1.54 pm

Meeting suspended.

3.00 pm

Council then resumed.

BILLS

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): We now continue to handle the Companies Bill. Committee stage. Council is now in committee.

MR ALBERT CHAN (in Cantonese): Chairman, a quorum is not present.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

(Bill originally scheduled to be dealt with at the last Council meeting)

COMPANIES BILL

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

CLERK (in Cantonese): Clauses 1, 4, 6, 8 to 14, 16, 17, 18, 20 to 25, 27 to 32, 34, 35, 40, 41, 42, 44, 46, 49, 55, 59, 61, 63 to 67, 70 to 77, 81, 87, 88, 93, 96 to 99, 101, 104, 106, 107, 110, 111, 115 to 119, 121, 123, 124, 125, 127, 129, 131, 132, 134, 138, 139, 140, 142, 145 to 149, 151, 152, 154, 158, 162, 163, 164, 168 to 172, 176, 180, 181, 182, 184, 185, 188 to 193, 195, 197, 199 to 204, 206, 208 to 212, 214 to 217, 223, 224, 228, 229, 230, 232, 234, 235, 236, 238 to 252, 254, 255, 257 to 260, 263, 264, 267 to 270, 273, 274, 275, 278, 283, 284, 287, 289, 290, 293, 304, 308, 311, 314 to 318, 320, 321, 323, 326, 327, 328, 333, 343, 347, 348, 351, 356, 359 to 362, 364, 366, 368, 374, 381, 383, 385, 388, 390, 392, 393, 395, 397, 398, 400, 402, 403, 407, 411, 412, 415, 417, 419, 425, 427, 428, 429, 432, 435, 440, 443 to 448, 450, 451, 452, 455, 457, 458, 459, 461, 465, 466, 468 to 471, 473, 476, 480, 483, 484, 490, 498, 499, 502, 508, 510, 511, 512, 514, 517 to 520, 524 to 528, 530, 531, 532, 536, 537, 538, 540, 545, 546, 548, 550, 557, 559 to 562, 564 to 567, 571, 575 to 578, 580 to 583, 585, 586, 587, 589 to 593, 595 to 599, 601, 604, 606, 615, 616, 625, 629, 631, 637, 638, 641, 644, 645, 652, 653, 654, 656, 659, 660, 662, 663, 665, 667, 672, 674 to 677, 679, 681, 685, 686, 687, 690, 695, 699, 700, 704, 705, 706, 708, 711, 713, 714, 716 to 719, 722 to 727, 732 to 737, 739, 741, 744, 745, 748 to 760, 763, 765, 768, 770 to 773, 784, 787, 789, 791 to 804, 806, 808, 809, 810, 813, 814, 815, 818, 822, 823, 824, 826 to 829, 831, 832, 834 to 842, 845 to 848, 850 to 853, 855 to 864, 866, 869 to 882, 884, 886, 888, 890 to 896, 898, 899 and 903 to 907.

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

MR ALBERT CHAN (in Cantonese): Chairman, as I had stated in the Second Reading debate, the Companies Bill ranks first among all other ordinances in terms of complexity and coverage. There are far too many issues and interests involved, making it difficult for ordinary public to understand. Due to its inherent shortcomings, many problems are found in the drafting of the provisions.

The hundreds of clauses read out just now are those which have not been amended after scrutiny of the Bills Committee. However, as stated by a number of Members in the Second Reading debate, they have been extremely busy in the past few months. Many members, including those who are well-qualified and familiar with the Companies Bill, might not have enough time to examine the clauses in detail.

Will there be mistakes and omissions in view of the excessively tight schedule? Of course, within the Government, there are professionals who must have examined the clauses again and again, and studied each of them carefully. Yet, there had been many cases in the past where the choice of words failed to correctly reflect the legislative intent, even though the professionals were well familiar with such intent. Sometimes, an inappropriate choice of words might even give rise to unfairness in law.

Although I have just noticed a few problems with the Bill, I still want to raise my worries and queries in the final stage of its scrutiny, which is the Committee stage. Some of my concerns are about choice of words and some are about policy issues. I now talk about clause 4, which is about certified translation.

Chairman, we often receive complaints and requests for assistance from the public when we serve the local communities. Sometimes, the cases are related to document translation or whether the documents in question will be accepted by the relevant authorities. The documents concerned may have to be translated from Chinese or other languages into English. Recently, I have dealt with a case which involves the translation of Vietnamese. For foreigners or non-Hong Kong people of other nationalities, they may be required to submit supporting documents when they apply for government approval at district level. Many of the supporting documents required must be translated before being accepted by the Government.

However, for the Government to accept such documents, clause 4(3) requires that Clauses 4(3) and 4(4) stipulate the types of specified persons for certifying translation. Chairman, here comes a problem. Certainly, it is best to have lawyers to handle all sorts of documents. Yet, we must understand that the Companies Ordinance to be enacted is a piece of legislation on companies. The 910 000 companies to be covered by this Ordinance operate in different modes and translation may be required for documents with different complexity and for different purposes. Some of them may be very simple, probably with only a few words, and can be well understood by a man in the street.

According to the existing provision, the person specified for the purpose of subsection (1)(b) basically falls within five major categories: (a) a notary public

practising in Hong Kong; (b) a solicitor practising in Hong Kong; (c) a certified public accountant (practising); (d) a consular officer in Hong Kong; or (e) a professional company secretary practising in Hong Kong. Yet, for "consular officer", the clause has not specified which kind of officers they have to be, and we can only trust the consulate in this respect.

As for the other four types of persons, they are all professionals who charge very high fees for their services. Simple services like reading through an article or issuing a letter may cost several thousand dollars. If they are asked to provide a translation and certify it by signing or stamping their names, they may at least charge a few thousand dollars. In case the document in question is more complicated, the client may have to pay tens of thousands of dollars. To large companies, this fee is just minimal and will not be an issue of concern.

In drafting bills, it is normal for the Government to set out professional and legal requirements based on strict legal standards. This practice can be understood but the problem is that, as I often criticize, technical bureaucracy considers every issue from a professional point of view and loves to adopt a leakproof approach by setting higher standards.

Chairman, when the standards are set so high, and the Bill now covers 910 000 companies, involving different kinds of documents, if subsection (1)(b) is applied what is subsection (1)(b) about? It is about "certified translation". Clause 4(1) reads as follows: "For the purposes of this Ordinance, a translation made in Hong Kong of a document is a certified translation if". Clause 4(1)(b) is "a person specified in subsection (3) certifies that in that person's belief the translator is competent in translating the document into English or Chinese (as the case may be).".

While certain documents are required to be translated under the law, some of them may just be some simple documents, such as documentary proofs. For example, last time, when I helped a Vietnamese, the document concerned was just a birth certificate, which is a simple document. Different departments have their own rules in certifying documents. As far as I remember, and I may not be 100% correct, some departments, in handling translated documents, would not require the translation to be certified by the five types of professionals set out in subsection (3). In some cases, the translator of a certain document will take an oath in a District Office or before a lawyer in the presence of a witness to testify

that the document translated by him is true and correct. District Office offers this service for free. The relevant departments would then accept the translated document as a valid document.

Yet, the Bill now suddenly imposes a new rule to change this accepted practice by stipulating that only the five types of professionals mentioned above are allowed to certify translation. From the perspective of professionals or the Coalition of Professional Services, which was previously led by LEUNG Chun-ying, the new approach will certainly be considered as desirable as it can help them make money. As we often say, technical bureaucracy always creates benefits for professionals. The entire system is meant to cover each other's wrongdoings and transfer benefits. Very often, the enactment of legislation aims at transferring benefits to specified persons in the law at the expense of ordinary public. For a simple company document, if it is required to be translated under the law As the document is simple, I may just ask my friend to translate it for free and then take an oath to prove that the translation is true and correct. This kind of translation used to be accepted by government departments. How come we now have to specify that the translation must be certified by those five types of persons?

The reason, I apprehend, is likely to be that the new requirement looks fine to members of the Bills Committee. On the surface, this requirement does look fine. Perhaps the people they are in contact with are different from those I have met. I often meet with the grassroots, and many say in tears that they cannot afford to fulfil such requirement. The staff of our offices will then tell them explicitly that we can do a rough translation but will not accept any liability. Sometimes, we will translate documents for the poor, but I do not think those five types of professionals will translate for free if their clients are some small companies in financial difficulties. In the past, some 1 000 Hong Kong lawyers who are China-appointed attesting officers did serve some poor people free of charge. For all I know, sometimes, they will kindly translate simple documents for our referrals, waiving them a fee of about \$1,000 on special grounds. There are such cases occasionally.

As for the Companies Ordinance to be enacted, I do not think it is necessary to have the requirement in clause 4(3). What I mean is that there is no need to specify in the Bill those five types of persons, including notaries public practising in Hong Kong, solicitors practising in Hong Kong, certified public

accountants (practising), consular officers and professional company secretaries. Why professional translators cannot be entrusted with the work? How about the simultaneous interpretation officers serving the Legislative Council? In Hong Kong, there are indeed many professional translators. Many specialists also teach translation. In our universities, a lot of talents are competent to do such ordinary translation. After all, they are not asked to translate the Nobel Prize literatures or major international agreements. They just have to translate documents mentioned in clause 4(1)(b) which contain only some basic information.

The biggest problem is that the Bill has not specified the required standard of such translation. For example, if a legal agreement is to be translated for a significant lawsuit, the required standard should be different. Worst of all, the Bill has not stated what kinds of documents have to be translated. This well supports my comment about the complexity and difficulties in formulating the company law in Hong Kong. In 1997, a relevant consultancy report raised the issue of how various problems should be dealt with in the legislative process so as to make things right in terms of law, administrative procedures, professional requirements and, in particular, fees and charges. The failure to address these issues is the biggest defect of the Bill. Chairman, a simple clause like this can fully and clearly expose the defects of the Bill.

Chairman, please do a headcount.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue with your speech.

MR ALBERT CHAN (in Cantonese): Chairman, just now, I briefly talk about my worries on this issue. As a matter of fact, when applicants submit

documents to a consulate, they are often required to consulates usually require a certification by people like doctors, engineers, teachers, social workers or surveyors. Well, the reputation of surveyors has been undermined recently after illegal structures were found in a surveyor's residence. How can surveyors now give a convincing opinion? As surveyors have lost their reputation, I think someone else may have to deal with this problem. However, other professionals may still certify or comment on the legal documents submitted to consulates.

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

MR WONG YUK-MAN (in Cantonese): Chairman, just for "Clauses to which no amendment is proposed stand part of the Bill" alone, the number is so numerous that they take up one whole page. Yet, no Members intend to speak on them. In this case, we must speak up. I would like to talk about clauses 1, 4, 6 to 9.

Regarding the commencement date, clause 1(1) states that "This Ordinance may be cited as". I hate the Chinese term "引|稱" (be cited as). I cannot understand why this term is used. Last time, when we discussed the Legislative Council (Amendment) Bill 2012, I had proposed many amendments on the term "引|稱為". As I did not join this Bills Committee nor do I intend to filibuster, I have not proposed any amendment on these clauses. Otherwise, I can raise as many as 10 000 amendments. Given that we were previously allowed to put forward 1 306 amendments, it would not be difficult for us to generate 10 000 amendments on the Companies Bill (the Bill). I am sure that we could have done so if we so wish, and none of the amendments would be ruled as in violation of the Rules of Procedure.

"This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette." I am now talking about clause 1(2) under the heading of "Short title and commencement". In fact, last week, when I spoke on the Personal Data (Privacy) (Amendment) Bill 2011 (the Privacy Bill) in the Second Reading debate, I had already made my position clear. In my view, we must consider if the Government has been given too much power in respect of the announcement of the commencement date. For the Privacy Bill, the Government has adopted a

flexible approach by dividing the clauses into two groups with different commencement dates. For the first group of clauses, the Secretary or the authorities are empowered to decide their commencement date. As for the remaining clauses, there is a flexible arrangement for their commencement.

This Bill is very complicated and will have to be complemented by subsidiary legislation. There are currently 13 pieces of subsidiary legislation under the former Companies Ordinance, and the Government will, at a later stage, have to make many pieces of subsidiary legislation to complement the enacted Bill. Meanwhile, the Companies Registry will have to revise its forms and update its database to cater for the changes. In view of this, we understand that the Government will need some time for preparation. While the Government expects that the new Companies Ordinance can come into effect in 2014, there is indeed a time gap of two years. If more Members had expressed their views in the Bills Committee or speak up in the present Committee stage, the clauses may not be so outdated when the Ordinance finally comes into operation two years later.

From the drafting of the Bill to its deliberation by the Bills Committee, and coming to this stage when the Legislative Session will soon expire, the Bill must be read for the Third time and get passed by the end of this session for it to be enacted. Yet, the Bill, if enacted, will not come into operation until two years later. Will the clauses which were drafted at an earlier time be obsolete by then? It seems that the Government would have to foresee the development in the next two years when it drafted the Bill. Is that right? So, here is the problem.

As I have said just now, the Bill has to be complemented by subsidiary legislation and, at the same time, the Companies Registry will have to revise its relevant forms and update its database, all these tasks are very complicated, are they not? The procedures involved may be lengthy, and the Government therefore needs to take two years to get everything ready. While the Secretary will have two years for preparation and announce the commencement date of the Ordinance two years later, what does it mean by "two years"? Is it exactly two years or what? It is not clearly stated in the Bill. It will be 2014 two years later. As it is July now, does it mean that the Ordinance will come into operation in July 2014, after a lapse of exactly two years? Or within two years? Or after two years or so, or even three years? The problem now is that, in the absence of a clear commencement date, we do not know when the Ordinance will

come into operation. Clause 1(2) in Division 1 (Short Title and Commencement) is only a simple clause which states that "This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette". Legally, it has not been stipulated that the Ordinance is expected to come into operation two years later, or it has not specified that the Ordinance will take effect two years later in 2014.

If, in the future, there is a similar situation where it is reasonably expected that an ordinance would take a longer time to commence operation, the Government may consider drafting the commencement clause in the following way: "This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette, but that day must not be later than a certain date.". It means adding the phrase "but that day must not be later than a certain date" after the commencement date stated in clause 1(2). Is it possible to draft the clause in this way? It will be more specific.

However, the Government may worry that, if a specific date is stipulated in a bill, and the time frame cannot be met, the situation may be complicated. For example, if it has stated in clause 1(2) that "this Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette, but that day must not be later than a certain date", and it turns out the more time is needed, and the Ordinance cannot come into effect as scheduled, what should be done then? In this case, can it be stated that the Government may change the commencement date by proposing a resolution to the Legislative Council? Is it feasible? If it is feasible, the Government can then have more flexibility, and the Ordinance will not be invalid due to various reasons, because up to this moment, the Government still cannot guarantee that it is only anticipated that the Ordinance will commence operation in 2014. It is just an answer given by the Government in response to the question raised by members of the Bills Committee. The commencement date has not been clearly stated in the Bill.

The Privacy Bill, which we discussed earlier, has specified that it must come into operation within nine months after its enactment. Nine months is a relatively short period of time. As for this Ordinance to take effect, the time needed is two years, which I think is ridiculously too long. Worse still, the actual time needed may be more than two years, or as long as three years.

Can the Secretary respond to my question later, please jot down my question. My question is: is it possible to add the phrase "but that day must not be later than a certain date" in clause 1(2) after "This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette"? If not, what are the reasons? Is the approach I proposed just now feasible? If not, I hope you can kindly explain the reasons for that. If you still worry about the lack of time, can you just state that the Government may change the specified time frame by proposing a resolution to the Legislative Council? Is this option feasible? I hope the Secretary can give us an answer.

While the issue of commencement date may sound simple, however, based on our previous experience in scrutinizing similar bills, we always think that, if the bill has conferred great power, or even full power to the Government in determining the commencement date with no flexibility allowed, why then should we put in so much effort to pass the bill?

Lately, the scrutiny of bills has experienced a "congestion" problem. Some people have tried to accuse the two of us, saying that the congestion is caused by our filibustering tactics, and consequently, bills concerning people's livelihood (including the Companies Bill and the Residential Properties (First-hand Sales) Bill) cannot be submitted to the Council for passage. Yet, have these bills been examined by the Council? Yes, they have. Obviously, we have nothing to do with the problem, right? Instead, as I have mentioned in the Second Reading debate, the question we should ask is: why does this amendment exercise come so late?

Buddy, the Companies Ordinance was enacted several decades ago! All the amendments made previously were piecemeal and minor in nature. Over the last few decades, our society and economy have developed in such a way that the entire economic model of Hong Kong has changed. Just like what Mr Albert CHAN has said, there are more than 900 000 companies there are really more than 900 000 companies.

This time, the rewrite of the Companies Ordinance does not only involve some minor amendments but a significant change in its structure with an aim to cope with the needs of our future development. In fact, I can understand why the commencement date has been set at a time after two years. I do have

sympathy for the Government as it has to make many pieces of subsidiary legislation to complement the Ordinance. Subject to the passing of the Bill, the Government will have to make many pieces of subsidiary legislation, while the Company Registry will have to revise its forms and update its database. We agree that all these task take time to accomplish, but is it necessary to take as long as two years? Can the Secretary promise to bring this Ordinance into effect within two years? This is why the commencement date is always of the foremost importance and must be clearly stated.

In the past, we had different views on this issue. As we found that the Government had taken a flexible approach to deal with the commencement of the Privacy Bill, we hope that the Secretary can consider my view to perfect this Bill. That will be a great achievement if you are willing to do so.

However, right now, I would like to ask the Chairman to summon Members to the meeting.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, please continue with your speech.

MR WONG YUK-MAN (in Cantonese): Chairman, I have finished talking about the issue of commencement date. Now, I want to speak on clause 4, which has just been mentioned by Mr Albert CHAN. I would like to express my views on clause 4 (Certified translation) as well.

Clause 4 does not require the specified persons to have any translation qualification or experience. Yet, they may just be some ordinary practitioners in the legal or accounting sectors. How can they be qualified to certify whether a person has the required translation competence? For example, certified public

accountants are professionals in mathematics. I am not sure if Paul has got the relevant professional training to make him capable of assessing the translation competency of others. However, logically speaking, will accountants really be capable of making such assessment? We should all have doubt about that.

The Companies Bill (the Bill) does not even require a specified person to read through the translation before certifying whether the translator concerned have got reasonable translation competency. Chairman, this is rather ridiculous because, for a specified person to certify the translation competence of a translator, he does not have to read the relevant translation first. In my view, clause 4 should set out some criteria for the specified persons to certify translation.

Let us look at this clause. The way the clause is drafted makes it hard for people to know who the "specified persons" are. Moreover, when these "specified persons" have to certify a translation, what criteria should they adopt? The Bill has not made it clear either. If it is stated that the acquisition of a professional qualification or a degree in translation is a criterion for assessing a translator's proficiency in translation, the assessment will be clearer and more objective. Therefore, the Bill should at least add in a clause like "the specified person may certify the translation competence of a translator if he or she satisfies that the translator meets the above criteria". Otherwise, the problem of clause 4 (Certified translation) is quite serious.

We are not trying to "pick bones in an egg" by giving these views. It is very important to have a careful procedure in certifying translation as translation errors may often (*The buzzer sounded*) bring losses to investors.

MR RONNY TONG (in Cantonese): Chairman, I would like to speak on a number of clauses in this joint debate session. I hope I have not made a mistake; the clauses I intend to discuss should, according to my understanding, fall within this session. Chairman, please correct me if I am wrong.

Chairman, first of all, I would like to talk about clause 452. Chairman, as stated in my first speech, this Bill is exceptionally lengthy and complicated. In its clause-by-clause examination, the Bills Committee had passed all the clauses so quickly that my occasional suggestions or queries could only be discussed in

brief. As I did not attend all the meetings, I could not participate in the discussion on some clauses which were passed in haste, and I would like to give my views on some of these clauses at the present Committee stage.

Chairman, if my memory serves me right, when I gave my views on clause 452 at the Bills Committee meeting, there were only three members present. One of them should be Ms Audrey EU. It reflects that, under such a tight schedule, it was impossible for us to deal with every single issue when we scrutinized this important Bill.

Chairman, the problem with the provisions in clause 452 has actually existed for decades. This clause is about the "Validity of acts of director". In short, the provisions therein, which have been in force since 1948, are basically for the purpose of stating that any acts of a person acting as a director will remain valid even if his appointment is later regarded as failing to fulfil the necessary requirements in law or is even in breach of law. Similar to the decisions made by the President of the Legislative Council, these acts cannot be overturned. Chairman, over the past few decades, these provisions have caused countless arguments, big and small, as well as many injustices.

Simply put, major shareholders of some companies may, by fair means or foul, appoint their supporters as directors for their own benefit. They may take advantage of the loopholes or take shortcuts to make such appointments, until they become the majority party in the board of directors. By then, they will bully the minority shareholders by acting against their interests. Despite the objections raised by the minority shareholders, the appointments in dispute will be in force for quite some time when the controversy is finally taken to court. By then, the directors concerned have already taken a lot of actions to strengthen their position. Even if the minority shareholders later succeed in challenging the appointments, proving that the appointments did not fulfil certain legal requirements or were simply void, the decisions made by such directors when they were in office cannot be overturned. I have dealt with many of such cases before.

Let me give another example. Sometimes, the director in question may give out bonuses to benefit his supporters. Theoretically, if the minority shareholders succeed in their legal challenge, proving that the appointment of the director was illegal, the director can no longer give out bonuses. However, the

fact is that even if the Court rules in favour of the minority shareholders, the bonus paid cannot be recovered. Worse still, these bonuses, which are actually the company's money, can be used by the director to fight against the legal challenge or to act in the interests of his side. In most circumstance, we consider such practice has given rise to grave injustice and unfairness. However, due to the principle of certainty which abides legal provisions, the decisions of directors cannot be challenged legally.

Chairman, I have actually raised my views on this issue to different levels of courts over the years. I have also pointed out to courts that, in some circumstances, this practice will result in injustice. Although various judges in different cases agreed with me, their hands were tied as that was how the law was written. If these provisions are not amended, we will continue to be bound by them.

In view of this, in rewriting the Companies Ordinance, the very first thing that I raised was my concern over clause 452 as I hoped that the Government could tackle this problem. However, as I have just said, the Government responded by saying that it would not amend the relevant provisions as they had been in effect for decades and were made to ensure the certainty of directors' acts.

Chairman, I think the Government, by giving this response, is too defensive. Perhaps they are out of touch with the injustices that I often see. In many cases that I have handled, the clients were being treated unfairly but they could not fight back by legal means. As a matter of fact, when we examined the Bill, I had asked the Government to amend this clause slightly. For example, regarding the point of "all acts are valid", I had suggested narrowing down the scope to procedural acts which do not affect anybody's interests.

Chairman, I can briefly explain what procedural acts are. For example, when a director issues a notice 21 days in advance to call for a general meeting and decides its detailed arrangements, such act can be considered as a procedural act. In other words, if the Court later rules that the appointment of this director is void, his procedural act, which is the calling of a general meeting, will still be valid. I think it is perfectly reasonable. However, when it comes to an act which has an impact on people's interests, we should treat it differently. For example, if the director gives out bonuses soon after he has come into office as I have just described, in my view, it is an act which will greatly affect the interests

of individual shareholders. In this case, if his appointment is illegal, this act should also be regarded as illegal or void. I hope that the Government can face up to this problem. As I have just said, over the years, I have handled about dozens of such cases. I do not think they are individual cases. There may also be many cases where the minority shareholders do not want to file a lawsuit. Some of them may have been advised by their lawyers not to fight a legal battle because the law is clear and it is impossible to have these acts overturned.

While this Bill may get passed today, I hope the Government can jot down my suggestion and review the Ordinance as soon as possible, so as to see if it should be amended as appropriate or whether the Government should incorporate my suggestion to limit valid acts to procedural acts which do not have any impact on people's interests.

Chairman, now, I would like to talk about another clause, that is, clause 824. Chairman, I must repeat once again that I will accept your ruling if you think that the clauses which I mention should not be discussed at this stage. Yet, according to the relevant document, clause 824 should be discussed in this joint debate.

Chairman, the problem with clause 824 is a bit simpler. Clause 824 provides the arrangement for sending a document to a holder of the shares, that is, a shareholder, when he is dead or bankrupt, with an aim to avoid complicated legal procedures.

Chairman, in examining this Bill, I suggested to the Government that this clause should cover shareholders who have lost their capacity due to mental illness. This is because their situation is same as those who are dead or bankrupt. The major concern here is that these shareholders are incapable and thus fail to decide on anything about the company, such as voting in general meetings, receiving bonuses or doing any other things for his interest, and this clause is meant to help people out of this situation. Therefore, I hope that the Government can put my suggestion on record and consider extending this clause to mentally incapable shareholders, that is, shareholders who cannot make decisions by themselves, in its future review on this Ordinance.

Chairman, then, I will talk about clause 828. When the Bills Committee examined clause 828, I had also put forward some suggestions. Chairman, the

situation covered by this clause is of a greater significance. When we read the provisions in clause 828, we can see that it is about the situation where a company or its member makes an application to ask the Financial Secretary to act as an inspector and investigate the company's affairs. Chairman, in some large companies, particularly listed companies, the way they operate or the procedure they adopt may give rise to injustice. If such injustice has profound impact, the company concerned or one of its members or directors will ask the Financial Secretary to conduct an investigation. CITIC Pacific Limited is a recent example.

Chairman, the provision that I want to comment is clause 828(4). Its current provision is same as the one in the former Companies Ordinance as the Government has not made any amendments. This provision states that "The Financial Secretary must not appoint a person under subsection (1) or (2) to investigate a company's affairs unless the Financial Secretary is satisfied that it is in the public interest to do so.". Chairman, I think the problem of this provision lies in its negative sentence structure as it has adopted a negative approach I am not sure if it should be described as a negative approach. To put it another way, this provision has put the burden on the applicants as it requires them to give justifications and convince the Financial Secretary to make an investigation.

Chairman, many legal practitioners and I think that this approach is neither appropriate nor comprehensive. The provision should have put the burden on the Financial Secretary. In other words, the provision should have adopted a positive approach in explaining the investigatory power of the Financial Secretary. The Financial Secretary should consider each and every application of this kind and decide whether it is in the public interest to conduct an investigation, regardless of the evidence given by the applicants. If it is in the public interest to do so, the Financial Secretary should then conduct an investigation. The burden should not be completely shifted to the applicants. If the provision is drafted in this way, the Financial Secretary, being an official, cannot hold back from conducting such investigations by claiming that the applicants have not provided sufficient evidence. Chairman, I therefore hope that the Government can review this issue in the future.

Thank you, Chairman.

MS AUDREY EU (in Cantonese): Chairman, although there is no amendment to the provisions discussed in this session, it does not mean that these provisions are not important or purely technical in nature.

Chairman, the company law has long been applicable to all types of limited companies, including political parties, schools or charity organizations, as earlier mentioned by colleagues. Chairman, there are often disputes among shareholders in these organizations over issues such as, how many days of notice shall be given when holding a meeting, which documents shall be circulated before a meeting is held, whether it is a company's responsibility to circulate documents which contain defamatory content regarding directors or other shareholders, under what circumstances shall such requests as proxy voting or anonymous voting be allowed in accordance with Memorandums and Articles of Association.

Chairman, most companies have long been operating in accordance with Table A of the Companies Ordinance. However, if we read the Bill carefully, we would find many provisions have been newly modified, and some provisions have an overriding effect, meaning that companies must comply with the regulations of the Bill once it is passed into law, regardless of the requirements of Memorandums and Articles of Association.

Chairman, when deliberating the Bill, which comprises several volumes, I once indicated to the Government officials that even people with legal background would probably find it hard to digest all the requirements, regulations and amendments of the Bill, not to mention the ordinary public. I rise to speak this time, hoping also that the Government will, in particular, consider arranging the Companies Registry and other departments to produce a clearly written booklet, or to provide adequate information on the Internet, for dissemination to all stakeholders or those interested in the Ordinance, before the Ordinance comes into effect. It is indeed very important that the provision requirements are expressed in simple language that can easily be understood by the general public.

Chairman, as I have mentioned before, the Company Ordinance is also applicable to political parties and we often have to refer to this legislation. For instance, we have to check and see when to issue notice when holding an internal meeting; whether it is our responsibility to circulate such documents if requested by any persons; or which information has to be made public and which should be

categorized as internal information when people request access to the register. As a matter of fact, we make mistakes very often as many requirements set out in this Ordinance are difficult to comprehend. Chairman, as I mentioned just now, those who are armed with legal knowledge, and even company law experts, would probably make mistakes in compliance with the relevant requirements, not to mention those who lack legal knowledge.

Therefore, I very much hope that the Government will produce some simply-written and easy-to-understand booklets for this Bill, as it did for the Immigration Ordinance, labour legislation or other codes of safe practice, whereby members of the public can read them on the Internet, get a copy at District Offices, or via other convenient means, to get to know the amendments in the Bill and have a better understanding of the relevant requirements.

Thank you, Chairman.

CHAIRMAN (in Cantonese): Does any other Member wish to speak? Mr Albert CHAN, you are speaking for the second time.

MR ALBERT CHAN (in Cantonese): Chairman, please do a headcount first, thank you.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, do you wish to speak again?

MR ALBERT CHAN (in Cantonese): Chairman, when I spoke on certified translation earlier, I only focused on clause 4(3) of the Bill. If we go through clause 4(5), we will find it a bit different from clause 4(3).

Clause 4(5) is basically set out for the purpose of subsection (2)(b)(ii), which stipulates the certifying conditions for translations made in a place outside Hong Kong. As regards the translations made overseas, clause 4(5) extends the range of persons who can certify this kind of translation. Clause 4(3) specifies five types of persons who can certify translations made in Hong Kong, whereas clause 4(5) specifies seven types of persons who are qualified to certify translations made in a place outside Hong Kong. Apart from notary publics, lawyers, professional accountants, consular officers and professional company secretaries, there are two additional types of persons who are qualified for certifying translations made in a place outside Hong Kong. The first type is any other natural person specified by the Registrar, whereas the second type is an officer of a court of law duly authorized by the law of the place to certify documents for any judicial or other legal purpose, as set out in subsection (5)(d).

Chairman, as I mentioned before, we should consider the professional needs and the importance of translation accuracy of the relevant documents. For example, it is absolutely understandable and acceptable for some state-level agreements with apparently significant legal status, or some important contracts, such as the natural gas supply contract signed between the China Light & Power Company Limited (CLP) and the Hong Kong Government, to have such a stringent requirement on certified translation. However, Chairman, from my experience a few years ago, a property management company owned by a large property developer in Hong Kong just took a sheet of writing pad paper to sign a cleansing contract, which involved 3 000 apartments, with unclear signature. This is not a recent case, it happened in the 1980s. Yet, the requirements of certified translation should vary from document to document.

As the entire Bill formulated by the Government has to be submitted to the Registrar of Companies (the Registrar), there are of course stringent requirements. However, when it comes to the translation of documents, why the translation made in Hong Kong cannot be certified by the two types of persons who are qualified to do so for the translation made overseas? As I said before, there are many people who basically have such competency and experience to do so. If the authorities allow more people to be qualified for translating the relevant documents, it may also stimulate the economy. For instance, I can set up a small company specializing in doing translation for small enterprises. The fee charged may be low, but it can create job opportunities and prevent lawyers, accountants and relevant stakeholders from dominating the whole market.

The biggest problem now is market monopolization across all sectors. Electricity supply is wholly controlled by CLP and the Hongkong Electric Company Limited, while transport services are controlled by the Mass Transit Railway Corporation Limited and bus companies. Only tycoons and those who have connection with senior government officials can enter the market, right? Nowadays, lawyers are turning to work as marriage celebrants, right? Mr Andrew CHENG is even turning his back on being a Legislative Member, to become a marriage celebrant. He is definitely an outstanding marriage celebrant. I praise him highly for his abilities to create atmosphere and give sweet talks to woo the couples, thanks perhaps to his experience as a Legislative Council Member. Many professional services in Hong Kong are being dominated by certain corporations which charge high fees and make big profit. For example, lawyers charge extremely high consultation fees, generally ranging from \$4,000 to \$5,000 per hour. If the authorities can relax the eligibility criteria to extend the scope of qualified persons

CHAIRMAN (in Cantonese): Mr CHAN, you are repeating the contents of your speech.

MR ALBERT CHAN (in Cantonese): Alright. I know you are saying that I repeated my points. I am talking about clause 4(5) to demonstrate the inadequacies of clause 4(3)

CHAIRMAN (in Cantonese): You are repeating your argument. As you now speaking for the second time, please do not repeat what you have said.

MR ALBERT CHAN (in Cantonese): Alright, I get it. Chairman, let me talk about another provision. I think I have already made clear the problem of clause 4. I just want to add one more point about clause 24, which provides that the Registrar may authenticate documents. Chairman, if the authority of the Registrar stipulated in clause 24 can be expanded to certify those uncomplicated legal documents that I earlier mentioned, the Registrar basically has the power to certify certain types of translated documents.

The heading of clause 24 is "Registrar may authenticate document etc.". Subsection (1) provides that "If a document is required by this Ordinance to be signed by the Registrar or to bear the Registrar's printed signature, the Registrar may authenticate it in any manner that the Registrar thinks fit"; whereas subsection (2) provides that "If anything is authorized to be certified by the Registrar under this Ordinance or any other Ordinance, the Registrar may certify it in any manner that the Registrar thinks fit".

I hope that clause 24 will cover certain types of translated documents. As we all know, the works of the Registrar as prescribed in the Bill are not all carried out by the Registrar himself. The Registrar can appoint or authorize his/her subordinates to carry out the works prescribed in the legislation. So, it is absolutely reasonable to expand the Registrar's power to authenticate documents as vested in clause 24 to cover certain types of translated documents within his/her purview. It will also benefit small and medium enterprises, which account for 90% of the total 910 000 companies in Hong Kong.

The authorities can of course charge a fee on such certification works in accordance with the requirements of clause 25 regarding "fees payable to Registrar". Companies can submit the relevant translated documents for certification by the appointed subordinates of the Registrar and pay the fee in accordance with the requirements of clause 25. As these kinds of documents must go through the Registrar for approval, the amount of fee charged would probably be far lower than the professional fees mentioned previously.

Chairman, please do a headcount, thanks.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue.

MR ALBERT CHAN (in Cantonese): Chairman, I would like to add one more point first before "Long Hair" takes his turn to speak.

Chairman, I basically have two points to make on the various types of companies as specified in clauses 6, 7, 8, 9 under Division 3 of Part 1 of the Bill. Chairman, my first point is that, as there are numerous types of companies, we have to seek different professional opinions to decide on which type of companies to be set up.

After passing this Bill, I suggest the Government to produce a booklet to introduce the difference among various types of companies from a legal perspective, together with their pros and cons, for reference by members of the public who wish to set up a company. Many ordinary members of the public are basically not familiar with such information. They have to pay a very high fee for seeking professional advice. More often than not, professional advice may not be correct, objective and reasonable. Experts will lure the public to do this and that, in order to make a profit. They are putting their professional interest first and exploit the ordinary members of the public. Some of my friends, who once went to see a doctor for minor ailments, were advised by the doctor to undergo an operation. Doctor A's diagnosis is 70% blockage of blood vessels, while doctor B's diagnosis as only 30% blockage of blood vessels. If my friend took Doctor A's advice to undergo an operation, he would have lost over \$200,000.

Chairman, the second problem which cannot be addressed by this Bill is about companies set up to deceive the public with various tactics, engage in improper or even unlawful activities. I have received many such similar complaints over the years and the authorities are unable to take immediate investigation and prosecution actions. These companies, once established, may immediately commit fraud or order goods without making any payment, and the responsible persons will then close the business and flee. These unscrupulous persons will very soon set up another company and play the same trick again. However, we are completely unaware of the relationship among these companies. They are not subsidiaries or associated companies as stated in provisions that I have previously mentioned. The only connection of these companies is the two or three responsible persons. Under certain circumstances, the unscrupulous persons will register their relatives as company directors without their knowledge and set up other companies to play the similar trick.

Renovation companies or trading companies very often will commit fraud in this way. Similar problems are recently found in a number of beauty and fitness companies. However, we cannot legally prove the connection among these companies. In fact, we can see series of frauds to exploit consumers' interest, but the Company Ordinance cannot address this problem.

Thank you, Chairman.

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

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, I will speak on clause 27, and I ask for your advice.

The clause is about documents to be kept by the Registrar of Companies, right? Chairman, isn't it? What is the purpose of keeping documents? The purpose is for public inspection. Being killed and being committed suicide are the same, they all involve killing. Hence, the purpose of this provision is in fact the same as that of clause 26(1) or that of a register of companies under the former Companies Ordinance. We all understand that in a thriving commercial community like Hong Kong, while the number daily transaction may not necessarily be that numerous, transactions do take place on a daily basis. Apparently, many people can in no way check documents in the process of transaction, and the register of companies under the former Ordinance is to facilitate people to do business, so that they can check the authenticity of the relevant information.

We should understand, people who make money through trading have to handle a lot of transactions, and even if he entrusts some professionals to check the documents, the professionals simply may not be able to look into all the documents in time. This is a common phenomenon in a commercial world. The situation is like we are going to buy a pair of sneakers, this is a pair of Adidas and that is a pair of Puma, they are all German products of excellent qualities. But if you take a closer look, you would find that they are made in Romania or Bulgaria, and now that they are made in China, or some are even made in Vietnam.

Take that as an example, if a consumer finds out the problem after he has bought a pair of sneakers, he may say to the salesperson, "I want to have a pair of sneakers made in Germany, how come this pair of sneakers is not made in Germany?" The pair of sneakers is the proof. However, the documents in the Companies Registry that we are talking about cannot be accessed immediately, in particular when a large quantity of transactions is being conducted. This is tantamount to the situation that in making a bulk purchase of sneakers, we may not be able to check the place of origin.

Clause 27(1) stipulates that "The Registrar may destroy or dispose of any document delivered to the Registrar for registration under an Ordinance if the information contained in the document has been recorded by the Registrar in any other form for the purposes of section 26(1) or for the purpose of a register of companies under the predecessor Ordinance."

Clause 27 (2) stipulates that "If a document or certificate has been kept by the Registrar for at least seven years for the purposes of section 26(1) or for the purpose of a register of companies under the predecessor Ordinance, the Registrar may destroy or dispose of the document or certificate."

Clause 27 (3) stipulates that "If the Registrar is required by section 46 not to make any information available for public inspection", that is, the information need not be made available for public inspection after they are made available to the Registrar, then "the Registrar is not required to keep a record of the information for any longer than appears to the Registrar to be reasonably necessary for the purpose for which the information was delivered to the Registrar."

Honestly speaking, after beating about the bush for some long, I am still not sure of the meaning of these provisions. There is no need to beat around the bush, in fact, it is very simple, that is, the Registrar should be allowed to exercise some sort of discretion, if the information is kept in some other forms This has reminded me of the surveillance ordinance, that is, when personal data are obtained by surveillance, the relevant information should be destroyed, but if the information is converted into intelligence data, they need not be destroyed. That is, the primary information should be destroyed, but once they have been converted into intelligence data, such information need not be destroyed. At that time, we had strong views about this provision, because the data obtained by way

of surveillance could be kept forever under a different category. The present situation is different in that the original information can be destroyed or disposed of. In other words, these two separate issues are related to one issue in reality.

However, as far as the spirit of legislation is concerned, if you get hold of someone's personal data and claim that such information is intelligence data, you can keep the data for a long time, or you can even process the data, and the problem will be very serious. For example, if LEUNG Kwok-hung has met "Fatso", then "Fatso" would be involved, and "Fatso" has met "Shanghai Boy", and this "Shanghai Boy" has met Talking about the mysterious case of this "Shanghai Boy", if someone has actually bugged or tailed him, the primary information should be destroyed. But if we are talking about the meetings between "Shanghai Boy" and Fanny LAW, or between "Shanghai Boy" and LEW Mon-hung and so on, the matter concerning personal privacy could be unlimitedly expanded with the concept of intelligence data, even endorsement can be made in this case. It is in fact not right for people responsible for intelligence reporting work to readjust their relationship.

However, it is wrong as far as this issue is concerned, because hard facts are involved, why should they be recorded? All we have to do is to call a spade a spade, and that is all.

As regards the legislation, let us judge whether or not this Government has the logic

CHAIRMAN (in Cantonese): Mr LEUNG, what is the relationship between what you have said and the Companies Ordinance?

MR LEUNG KWOK-HUNG (in Cantonese): It is about the spirit of legislation. What I am trying to explain is that the provisions under these two clauses are in fact totally unrelated. For information that we hope the authorities would not keep, they will keep them; while for information that we want the authorities to keep, they will not keep them, but to leave it to the Registrar to decide whether or not to keep them, therefore

CHAIRMAN (in Cantonese): The only part that is relevant in your speech is the saying of "totally unrelated".

MR LEUNG KWOK-HUNG (in Cantonese): You are right.

CHAIRMAN (in Cantonese): Are you discussing clause 27?

MR LEUNG KWOK-HUNG (in Cantonese): I know, yes, I understand. I know that they are totally unrelated, they are totally wrong.

Let me revert to clause 27(2), it is stipulated that "If a document or certificate has been kept by the Registrar for at least seven years for the purposes of section 26(1) or for the purpose of a register of companies under the predecessor Ordinance, the Registrar may destroy or dispose of the document or certificate." This is the expansion of the same logic. That is, if the Registrar considers that the information have been kept over seven years, he no longer needs to keep them for a longer period of time for public inspection.

In the wake of technological advancement, a USB thumb drive is good enough. In the past, the high stacks of records made searching difficult and time consuming. I went to apply for legal aid the other day, the department asked me to produce a divorce certificate. I could get the certificate in a week's time, but in the past, the time needed was much longer. In the past, it was considered that records kept for seven years could be disposed of, so as not to take up the storage space of government premises, but we do not have this problem now. Records can be kept for as long as 17 years. If we were to reverse a previous judgment, records of the 4 June Incident should well be preserved for more than two decades.

Why should records be kept for seven years? Perhaps it is because of the seven-year itch. The Government considers that they have kept the records for seven years at a hefty cost, but no members of the public have inspected such records. However, whether or not the public will inspect the records has nothing to do with the Government. The Government is duty-bound to keep such records. In view of technological advancement, a single USB thumb drive is

good enough. A staff of the Legislative Council Secretariat said to me, "Mr LEUNG, I give you one thing." He gave me a thumb drive, which may store all the information. One thumb drive for each person; what is the big deal? We can put all the thumb drives in a plastic bag. I wish to tell Members, the person who drafted the seven-year records keeping rule drew reference from the stipulation that a person who have been missing for seven years would no longer be sought. "Silly Keung", do you agree you are not "Silly Keung", you are a Secretary who restrain the powerful and help the weak.

The Government is so rigid, Chairman, you know it too well. Just think about it, why records are kept for seven years? Is it due to seven-year itch or due to other reasons? Such kind of legislation is unreasonable. Why should records not be kept forever? If the Government considers that they are too voluminous, it should post a notice announcing that "all records will be destroyed, all 50 000 thumb drives will be dumped in the landfill to make way for LI Ka-shing's property development project. If you do not come to get back the records or inspect them, you will no longer be able to do so." Should we take this step? Should we still put all the records in a coffin-like drawer, as depicted in old movies?

The Legislative Council also applies the same rule, it keeps records for seven years. Why seven years? Chairman, you should not blame me for talking too much. I just use my brain and consider that it is unreasonable to keep records for seven years, why not 70 years or 17 years?

The seven-year issue has been solved, I consider that it is plagiarism. My father went missing and I reported to the police. The police officer told me that if he did not come back after seven years, he would be assumed dead. Later, I found that it was not the case, the police officer lied to me, it should be 30 years; just that after seven years, the police stop searching for the missing person.

These figures are laid down in the common law and the British are simply irrational in setting such figures. In the era of technological advancement, data preservation can be done effortlessly and data user can easily retrieve the information, why not ask the user to pay some money to preserve the information that may be of use to him later? Chairman, do you think I am right?

Another "interesting" point is that "If the Registrar is required by section 46 not to make any information available for public inspection, the Registrar is not required to keep a record of the information for any longer than appears to the Registrar to be reasonably necessary for the purpose for which the information was delivered to the Registrar".

Actually, if I were the law draftsman, it will be very simple, "If any information delivered to the Registrar are not for public inspection, the Registrar may destroy such information at any time." I had once been a translator and the charge was \$2 a word. I had translated speeches for opening ceremonies, and this legislation has nothing to do with me, but I can do a better translation. After scrutinizing the provision, in fact, the real meaning is "if the information provided is not available for public inspection, they may as well be destroyed at any time." How can I not be infuriated? Chairman, you taught me yesterday of the classic *Gu Wen Guan Zhi*; after reading for some time, I found that Chairman, I think the entire spirit is wrong. The Registrar is only a chair, anyone can sit on it; he is merely a servant. When you order a servant to give you a bowl of soup, and the soup is so hot that scalds your throat, how come you do not say a word; or if the soup is so cold that you have loose bowels, how come you still remain silent?

In modern society, data storage is so simple and easy, why should we empower the Registrar with the discretion? He should display all the data and make them available for inspection. A thumb drive can do all the work, why should we go back to the ancient time of keeping records in coffin-like drawers? This simply does not work. Chairman, I think simplicity is the best policy.

CHAIRMAN (in Cantonese): Does any Member wish to speak? Mr WONG Yuk-man, this is the second time you speak.

MR WONG YUK-MAN (in Cantonese): Chairman, I talked about clause 4 on certified translation in my last speech. I specifically pointed out that the provision has not stipulated any criteria for the person specified to certify a translator's professional qualifications.

I think my query is not "picking bones in an egg", because it will be very helpful if there are stringent certification criteria. Translation errors can be misleading and investors would suffer losses as a result. In the case of Lehman Brothers-related minibonds, for example, many investors who do not know English fail to understand the complicated

(Mr LEUNG Kwok-hung stood up)

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): I, in accordance with Rule 17(3) of the Rules of Procedure Rule 17(2) no, subsection (3), for we are in the Committee stage.

CHAIRMAN (in Cantonese): Are you requesting a headcount? Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, please go on.

MR WONG YUK-MAN (in Cantonese): I was interrupted.

Just now, I cited the case of the Lehman Brothers-related minibonds as an example, saying that many investors, who do not know English, cannot understand those abstruse provisions; hence they had to rely on information provided by their agents and they suffered losses in the end. Regarding the cases of many elderly persons whom we met in the past, the situation was usually like this. They just signed their names, as the Chinese and English versions were so lengthy and the words were so small, one could only read such documents with the help of a magnifying glass.

Similarly, if a translator is not competent, and the translated version of an initial public offering prospectus contains inaccurate or misleading information due to translation errors, members of the public can be adversely affected. Therefore, during the consultation stage of the Companies Bill, The Law Society of Hong Kong (The Law Society) suggested adding a new subsection for other person or entity specified by the Registrar of Companies (the Registrar) to certify a translator's competence. This suggestion is certainly reasonable as far as common sense is concerned. Regarding the Companies Bill, The Law Society, like accountants, is best qualified to give advice. However, clause 4(6) authorizes the Secretary for Financial Services and the Treasury to, by notice published in the Gazette, amend clauses 4(3) to 4(7). Chairman, you will understand if you have read the provisions. We are therefore not talking nonsense.

Speaking of translation, The Law Society suggested adding a new subsection for other person or entity specified by the Registrar to certify a translator's competence. The Government, however, does not accept this suggestion, for the reason that clause 4(6) — Chairman, you have the text of the provision on hand — stipulates that "The Secretary may, by notice published in the Gazette, amend subsection (3), (4) or (5)". Due to this provision, the Government believes that The Law Society's suggestion is unnecessary.

The Government's remarks are so disappointing. In fact, to prepare for the resumption of the Second Reading and the Committee stage of the Companies Bill, I have read so many words that I have not done so for a long period, and my eyes sore because of that. While I dare not use the word "profound" to describe the Bill, if you look at that big bundle of blue paper on your desk, Chairman, you will know that the contents of the Bill are really extensive. Mr Albert CHAN even said that a master's thesis can be written after reading the Bill, and that is indeed the case. Therefore, up until now, I really fail to understand why nobody else rises to speak when so many Members are sitting in the Chamber. Chairman, please do a headcount to summon them to the Chamber.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, please go on.

MR WONG YUK-MAN (in Cantonese): I remarked just now that during the consultation stage of the Companies Bill, The Law Society suggested adding a new subsection for other person or entity specified by the Registrar to certify a translator's competence. The Government, however, does not accept this suggestion, for the reason that clause 4(6) stipulates that the Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend clauses 4(3) to 4(7).

We are very disappointed that the Government does not accept The Law Society's suggestion. The existing structure of the Government is already very rigid and bureaucratic. We oppose the proposed restructuring of five Secretaries of Departments and 14 Directors of Bureaux, exactly because of its already inflated structure with superfluous posts. Since three Secretaries of Departments and 12 Directors of Bureaux are already too many to me, the expansion to five Secretaries of Departments and 14 Directors of Bureaux will certainly be opposed by us. Our opposition has been proved justified, and the restructuring could not be completed before 1 July.

The existing structure of the Government is very rigid and bureaucratic. For example, the Registrar, being the person in charge of the Companies Registry and responsible for dealing with various matters concerning the regulation of companies at the front-line level, is more suitable and better informed than the Secretary when it comes to determining the list of specified persons. As we all know, even though certain power has been vested in the Secretary, that power is not exercised by the Secretary in reality, but in his name only. Since it is exercised in his name only, why the Registrar is not allowed to deal with the matter?

Therefore, why is The Law Society's suggestion not feasible? The Government does not accept the suggestion of allowing the Registrar to specify other person or entity to certify a translator's competence, and insists on conferring this power on the Secretary. The power, however, is not exercised by him in reality, and he is only required to bear responsibility. In fact, matters like this are all dealt with by his assistants, for the Secretary is so busy in his official business every day. I dare not say he has no knowledge about such matters, but given their trivial nature, he will actually not care too much. He will delegate

his subordinates to handle the work in accordance with rules, right? As such, why is the Registrar not allowed to deal with the matter?

Under the arrangement of clause 4(6), the Registrar must first apply to and obtain permission from the Secretary in accordance with clause 4(6) before making any amendment by notice published in the Gazette. The procedure is very complicated. In addition, as I said just now, the Secretary has to deal with a wide range of official business, and it is hard to believe that he will proactively review the lists concerned. This matter is thus not dealt with by him in reality. Instead of assigning the relevant work to the Registrar or to his assistants, the Secretary should delegate power to the Registrar, so that the Registrar may, by notice published in the Gazette, amend the lists concerned of his own accord. This is our query concerning The Law Society's suggestion and clause 4 on certified translation.

In addition, I would also like to talk about clauses 6 to 9. Clauses 6 to 9 are provisions of Subdivision 1 "Limited Company and Unlimited Company" of Division 3 "Interpretation of this Ordinance: Types of Companies". Regarding the definitions of "limited company" and "unlimited company", clause 6 stipulates: "For the purposes of this Ordinance, a company is a limited company if it is a company limited by shares or by guarantee." The following clause 7 explains what is a company limited by shares, clause 8 explains a company limited by guarantee, and clause 9 is on unlimited company. Such are the contents of clauses 6, 7, 8 and 9, four clauses in total.

As for definitions, the Companies Bill basically adopts the definitions in the former Companies Ordinance, and only excludes some outdated categories of companies, such as private or non-private unlimited companies without a share capital, while reclassifying some categories of companies and including the reclassified companies into the various new categories, such as including private and non-private companies limited by guarantee without a share capital into clause 8 and naming them "companies limited by guarantee". The exclusion of some outdated categories of companies in the definitions differentiates the Bill from the former Companies Ordinance.

Before 2004, apart from companies limited by guarantee without a share capital, there were also companies limited by guarantee with a share capital. In order to deal with such a situation, clause 8(2) of the Bill specifically provides

that a company is a company limited by guarantee, irrespective of whether it has a share capital or not, if the company was formed as, or became, a company limited by guarantee under a former Companies Ordinance before 13 February 2004. Clause 8(2) ensures that such companies will not be regarded as registered companies limited by shares due to clause 16(1)(b).

I would not bother to read out the contents of clause 16(1)(b), because you can read the contents if you turn to the relevant page. Regarding companies limited by guarantee mentioned in clause 8, we can see from the relevant minutes of the Bills Committee that the Hong Kong Small and Medium Enterprises General Association (HKSMEGA) suggested introducing a simple deregistration procedure for companies limited by guarantee. The relevant discussion can be retrieved from the relevant minutes of the Bills Committee. In short, regarding clause 8 on companies limited by guarantee, the HKSMEGA suggested introducing a simple deregistration procedure for companies limited by guarantee, and we support this suggestion.

In Hong Kong, what is a company registered as a company limited by guarantee? Chairman, is there a Pui Kiu Alumni Association? There is, right? It is exactly a company of this kind, so is Chu Hai Alumni Association. Furthermore, benevolent associations, clansmen associations, academic organizations and political/civil groups are all companies of this kind. They are classified as one category of companies, and most of them are non profit-making organizations.

Speaking of this, I have to talk about the former duel between the Nationalists and the Communists for public support in Hong Kong. As we all know, after 1949, the Nationalists and the Communists fought wars without gunfire in Hong Kong, bringing the civil war on the Mainland to Hong Kong, a base for advancement. Ultimately, the Communists won for sure. You will know this simply by looking at those trade unions. Rightist trade unions still had seats in the former Legislative Council before 1997, but they had none at present. The current three seats returned by the Labour functional constituency have nothing to do with rightist trade unions. Rightist trade unions like the Hong Kong and Kowloon Trades Union Council (TUC) had better join the Federation of Hong Kong and Kowloon Labour Unions or the Hong Kong Federation of Trade Unions. This will not matter much given the reconciliation between the Nationalists and the Communists. In the past, however, trade

unions from both sides fought severely. As Ms LI Fung-ying knows, the catering industries unions under the TUC used to be so powerful.

The waning and waxing of power are usually closely related to such trade unions, clansmen associations and benevolent associations. It is still the case even nowadays. There are the Hong Kong Journalists Association and the Hong Kong News Executives' Association on the one side, and there must be a Hong Kong Federation of Journalists on the other side to contend with the former two. In those years, groups that had "聯" (federation) in their Chinese names were usually leftist. With the presence of rightist groups, leftist and rightist groups therefore contended with each other. After the riots in 1967, such clansmen associations, benevolent associations and trade unions with political inclination, political background or receiving support from political forces saw the decline of leftist groups due to the influence of politics and the duel between the Nationalists and the Communists in the 1970s. However, with the advent of the 1980s, leftist groups resurrected, and rightist groups began to decline. As LEE Teng-hui greatly pushed forward with Taiwan independence when he was Chairman of the Nationalist Party, the situation was not worth mentioning, with the Nationalists having given up Hong Kong. All such groups are registered as company limited by guarantee, so are political parties. Since Hong Kong has no political party law, all political parties in Hong Kong are limited companies, and there is another explanation for such limited companies: they are truly "limited", like "the sore on the tail of a mouse, though large, is limited". The biggest one among them is the Democratic Alliance for the Betterment and Progress of Hong Kong, (*The buzzer sounded*) but it is also like "the sore on the tail of a mouse".

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

MR ALBERT CHAN (in Cantonese): Chairman, a headcount.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

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

(Mr Albert CHAN stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr Albert CHAN, you are speaking for the third time.

MR ALBERT CHAN (in Cantonese): Chairman, I talked about the definition of companies just now, and offered some suggestions to the Government. Members should pay attention to the issue of guidelines as mentioned in clause 23 "Registrar may issue guidelines" of the Bill, particularly clause 23(5), because a fundamental principle is involved. As far as we understand, Chairman, guidelines are certainly different from laws, but it will be a bit strange if the Bill provides that no criminal or civil liability will be incurred despite the contravention of guidelines.

Chairman, any text, agreement, verbal commitment, professional advice or professional instruction can lead to civil liability. Certainly, for criminal liability, the relevant requirement is relatively stringent and higher. However, if the Bill provides that no civil liability will be incurred despite the contravention of guidelines, the Government is giving people a strong impression that it is shirking its responsibility. The guidelines provided by the Registrar will affect many companies or people in handling relevant applications or addressing problems in various aspects. Apart from the 900-odd provisions of the legislation, there are guidelines which set out clear directions and people will be affected. Under such circumstances, I believe it is inappropriate for the Government to shirk its responsibility.

Certainly, the wording of the provision is very ingenious. Chairman, I hope that managers or responsible officers for company registration can be very careful, because "responsible person" is provided in clause 3 of the Bill. I will talk about "responsible person" later but not now. Clause 23(5) provides that: "A person does not incur any civil or criminal liability only because the person has contravened any of the guidelines." Certainly, the contravention of guidelines coupled with any other action, situation or operation problem that

causes damage will lead to legal liability. The wording of the provision is "only because the person has contravened any of the guidelines".

Chairman, I have seldom heard or noted that no civil liability will be incurred despite the contravention of certain rules. Generally speaking, there are laws setting out requirements for the determination of criminal liability. However, I do not know if this has contravened the principles of common law. I hope Ms Audrey EU or Dr Margaret NG can offer me some advice, because I am not an expert in this field. I find it a bit odd for the provision to categorically rule out civil liability.

Guidelines are formulated by the Government, and I have not coerced the Government into doing so. The Government has a professional obligation. This is very simple. For example, a cleaner incurs civil liability if he has mopped the floor but failed to dry it, thus causing a person to trip and fall; a bus driver incurs civil liability if he drives too fast and thus causes injury to passengers standing inside the bus. If the contravention of guidelines is clearly stated, something abnormal must have occurred, or some rules have obviously not been followed. In this context, why does not a person incur any liability only because he has contravened the guidelines? I think this is a bit inappropriate, and I do not know if my interpretation is right: as for why "only because" is stipulated, the contravention of guidelines may account for 99% of the reason and other factors account for 1%. As Members all know, many acts are caused by various kinds of complicated factors, and thus no civil liability will be incurred if the contravention of guidelines accounts for 100% of the reason. If the contravention of guidelines accounts for 99% while another factor accounts for 1%, shall you assume 99% of the liability? This is again very ingenious. As Members all know, civil claims or civil liability are usually determined on a percentage basis. For example, as I said just now, if you trip and fall because of a wet floor, and this factor, known as a contributing factor, represents 30% of the reason, compensation will be offered to you on a 30% basis. That said, what is the computation method if similar incidents happen in the future?

As for guidelines, if you are not careful enough or have failed to gain a thorough understanding, or due to other factors As I said just now, since this provision involves some 910 000 companies, how can the Government rule out civil liability in the face of problems resulting from the contravention of guidelines? I am of the view that a ceiling for claims can be set, but I am not

aware of the extent of damage caused by the contravention of guidelines, because I am not a business man, right? For example, for a company with a diversified business scope, the contravention of certain guidelines may lead to problems in terms of the composition, operation or administration of the company, and the financial losses incurred in investments or professional fees can be minimal or enormous.

There are certain clauses to which no amendment is proposed, but I am not sure whether members of the Bills Committee have reached an agreement during their discussions. For example, I talked about clause 4 on certified translation just now, and Mr WONG Yuk-man, after checking the relevant minutes, pointed out that the Law Society had a suggestion but the Government did not accept it. Therefore, it is important for us to highlight the importance of certain issues through the discussions at the Committee stage, and our discussions will be recorded in historical documents for future reference. Unfortunately, as for the 400-odd clauses to which no amendment is proposed, the number of Members showing concern in this Chamber is absolutely limited. Members from many big political parties seem to have become dumb. However, I am thankful to Ms Audrey EU and Mr Ronny TONG, two senior counsels, for expressing their views on problems relating to the clauses.

Chairman, a headcount please.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please go on.

MR ALBERT CHAN (in Cantonese): Chairman, before I continue to speak on another clause, let me make a clarification. When I spoke last time, I talked about professionals, and I specifically said that the person who surveyed LEUNG Chun-ying's house is a surveyor. Prof Patrick LAU told me just now that he is

not a surveyor, but an engineer. I have thus made a small mistake in my accusation, and I would like to take this opportunity to make a clarification.

Chairman, I would like to talk about clauses 35 and 40 of the Bill hereafter. Under clause 35, if a person is aggrieved, the person may appeal to the Court of First Instance. Clause 35 proposes a mechanism for making an appeal by a person aggrieved by a decision of the Registrar to refuse to register a document.

Chairman, as we remember, we have earlier passed a bill on mediation. The problems arising from the said clause are actually not that serious, and it is basically about refusing to register a document.

Clause 35(1) stipulates: "If a person is aggrieved by a decision of the Registrar to refuse to register a document under section 33(2), the person may, within 42 days after the decision, appeal to the Court against the decision."

Chairman, on many occasions in this Chamber, I strongly criticized the Government for abusing powers, for being too demanding with the others while holding itself aloof by exercising all its legal powers. Members of the public can sue the Government for any wrongdoing. For civil servants, the simplest way to deal with such is to act in accordance with the judgment of the Court as soon as it is available. However, even if the Government has lost a lawsuit, it will appeal and further appeal until members of the public who initiate the lawsuit go bankrupt.

As Members all know, law is a game for the wealthy. The Government often engages itself in lawsuits with large corporations until the cases go to the Court of Final Appeal. We also have several lawsuits with the Government, including my judicial reviews filed against the election of the Chief Executive and the listing of The Link REIT. For judicial review against the listing of The Link REIT, someone had applied for and successfully obtained legal aid.

However, for such a simple issue as an applicant being aggrieved, I really cannot understand the practice of the Government. In the past several years, not just several months, the Government has relentlessly boasted that Hong Kong will become a mediation and arbitration centre of the entire Southeast Asia or China. The Government hopes to accomplish this task, but, regarding laws enacted by itself, when any dispute is involved Certainly, major disputes may have to

be resolved by court. However, disputes over price rises of the Western Harbour Crossing and the Eastern Harbour Crossing are simply resolved through arbitration. For many disputes between owners' corporations and landlords, among landlords themselves, between management agents and owners' corporations, or landlords' disputes with owners' corporations and management agents, the Government invariably suggests mediation. Why does the Government not take the lead in resolving the simple issue of an applicant being aggrieved through mediation instead of requiring the applicant to appeal to the Court of First Instance?

We see that the three pages of the various subsections of clause 40, including subsections (1), (2), (3), (4), (5), (6), (7) and (8), are all related to the Court of First Instance. This issue can actually be resolved in a simple manner. A mediator can be identified for studying whether the document has any problem, whether discretion can be exercised regarding the document or anything else can be supplemented. This is because some 910 000 companies are involved. Certainly, regarding these 910 000 companies, not each of them has problems with its application. However, if the Government intends to strengthen the status of Hong Kong through the new ordinance and attract international or Mainland companies, large or small, to Hong Kong for registration, should not it reconsider, for the convenience of companies, the procedure relating to the registration, ratification and acceptance of documents? Some cases can be very complicated, while some are very simple. Therefore, in this regard (*The buzzer sounded*) I will make supplementary remarks later, Chairman.

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

(Mr LEUNG Kwok-hung stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, you are speaking for the second time.

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, I will speak on clause 139 of the Bill this time. Have you turned to that page?

Clause 139 of the Bill provides for the issue of share certificates, and it mainly stipulates: "(1) Within 2 months after an allotment of shares, a company must complete the certificates for the shares and have the certificates ready for delivery", meaning that the company must, within the stipulated period, deliver the share certificates to persons who have subscribed and been allotted shares. However, there is an exception: "Subsection (1) does not apply if the conditions of issue of the shares provide otherwise", meaning that there can be other provisions, but the Bill does not explain the details of such provisions. Certainly, there are exemptions in some other places or such matters can be dealt with in other ways, but this is not the crux of my discussion.

The provision stipulates: "(3) If a company contravenes this section, the company, and every responsible person of the company,", please note that it is every responsible person, "..... commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues." This provision is extremely outdated. I was once a distributor of a publication for distribution in factory areas. I would receive \$10,000 if I promised to be the publisher. At that time, \$10,000 was a significant amount, because we were poor. However, does a rich person have any difficulty to pay \$10,000? The provision is like this, setting the amount of a fine at merely \$10,000. In fact, what are the amendments? No, it should be a new ordinance instead of amendments. What are the differences between the new ordinance and the original one? There is only one difference, and that is the change from level 3 to level 4. Do not misunderstand me. I am not referring to film classification by the Film Censorship Authority, but the change of a fine from level 3 to level 4. In that case, what are the differences between level 3 and level 4? I think most Members will not seek to know the answer, what concerns them is to pass the Bill expeditiously. Chairman, let me tell you, the difference is an increase of a fine from \$10,000 to \$25,000. Do you think this will have any deterring effect? Chairman, the increase of \$15,000 is about 10% of your monthly salary. If you have established a company with a share capital — certainly you will not do so at present — and you, Chairman TSANG, have contravened this Ordinance, you will have to pay an additional \$15,000, given the Government's advocacy that our laws should be upgraded to keep abreast of the times. In this way, will you be scared? You will certainly not be scared if you are rich. Is it a big deal if you have failed to complete the share certificates within two months?

The problem is, Chairman, think about it carefully, the allotment of shares is very important in a commercial society. Initially, the allotment of shares was usually for fund raising, but today, it is mainly for profit-making. Talking about doing business in the past, I remember that an uncle of mine partnered with others to run a restaurant called Goldlory Restaurant in Shau Kei Wan, where I used to live. Many people called him "boss", and he showed great concern whether the barbecued pork or buns with barbecued pork filling sold by that restaurant were delicious. This involved his credibility, buddy. In modern capitalist societies, the allotment of shares is for profit-making purpose, this explains why we have so many initial public offerings. It seems that Barry CHEUNG has a company called United Company RUSAL Plc. This is ridiculous. Is that company really engaged in selling aluminum? However, this is the provision.

Why is there such an insignificant increase from \$10,000 to \$25,000? Do not make people go bankrupt as proposed by President JIANG. Do Members know what I am talking about? President JIANG once said that he would make those who got rich bankrupt. This is socialism with Chinese characteristics. The issuance of shares is very important. As regards whether a company can complete share certificates within two months, the stipulated period is two months, buddy. It only takes six days for God to create the entire world, including our ancestors, and there is one day for rest. Within a period of two months, buddy, how many worlds can be created? A bunch of people are really "creating a world".

Do they have any sincerity if they cannot complete share certificates within two months? If a company closed down or its responsible persons died, investors would not be able to get their shares. In fact, whether the issuance of shares is for raising funds, running real business, or making profit, buddy, you should do it in a decent manner, right? Chairman, when I bought rice with barbecued pork and chicken at Cafe' de Coral, they gave me a receipt; and when I went to the wrong counter, they said to me, "Sorry, Honourable 'Long Hair', you should go to the barbecue counter on the other side to pick up your food." There is at least a receipt for me. The clause provides otherwise. In our commercial society, we are asked to follow rules, and "Long Hair" has to get the Chairman's permission before he speaks. So many precepts have been formulated for ordinary citizens, with even a scale is used for selling vegetables. However, such a bunch of people cannot complete share certificates within two months, I hope the Secretary can explain to me when he makes his reply in a moment. Is

it because of technical difficulty? If not, they should have done such things when issuing the shares. When I read financial news, I noted that United Company RUSAL Plc would issue 200 million shares Barry CHEUNG was speaking rather justifiably, but he is at the same time the Chairman of a public organization. This is queer to me.

If they have failed to do so, there is actually no need to issue one certificate for each share. Is it possible to issue one certificate for every 100 000 shares? Hand-written certificate is also an option when necessary, right? If many more shares are to be issued, one certificate can be issued for every 1 million shares instead of 100 000 shares, and hand-written certificates should be accepted, just like writing a cheque. Now they cannot complete the task. For such a highly likely incident to take place, there must be secrets that cannot be told, or the companies concerned are not worth investing.

If you cannot bring home a report card after examination or if you, like me, are not admitted to attend the Hong Kong Certificate of Education Examination because you forget to bring your admission card, should you have yourself to blame? For these people, do you think an additional fine of merely \$15,000 is justified? In my opinion, the Government has no sincerity to protect small investors when enacting legislation. It is only paying lip service. Electronic version is also an option, buddy, since there is already electronic stamping service.

Third, Chairman, it is more interesting to note that the Government thinks that it is not good to be obstinate, and hence repeated offenders must be punished. Chairman, listen carefully: "If a company contravenes this section, the company, and every responsible person of the company,", the "every responsible person" therein is ingenious, since there may be only one responsible person, given the existence of a keeper. As we all know, there is a keeper for a vice establishment; as soon as you arrive there, a drug addict will claim to be its manager. Regarding "every responsible person", there may be only one responsible person, or those persons are not really responsible.

"..... commit an offence, and each is liable to a fine at level 4". I have read out this part earlier, "and, in the case of a continuing offence", meaning that the offence has been committed in the past, and I do not know whether this implies a previous offence, or after two months, the offender is still obstinate.

The offender will therefore be liable to a further fine on a daily basis, so as to make him feel the pain. Buddy, how painful will it be for the offender to pay only \$700 each day? For wealthy people, this is the cost for a steak dinner. Seven hundred dollars, what a huge amount of money! It really makes a difference.

Chairman, I was previously charged with contempt of the Legislative Council. If this Council requests a person to produce a document, and he has failed to so do, he will really be subject to a fine on a daily basis. Have you ever read the relevant legislation? It is also the case. In the case of LEUNG Chun-ying, for example, if the Legislative Council, given our distrust of him, requests him to produce the sales and purchase contract or a building plan of his house, and he has failed to do so, claiming in a rather justifiable manner that he will take full responsibility and will not produce the building plan to avoid making us dizzy, he has contravened the relevant law and will be subject to a fine. Compared with this, a fine of \$700 The ordinance concerning contempt of the Legislative Council is actually outdated after so long a period.

Therefore, as we are aware, there is a kind of spirit in clause 139 of the Bill, and that is "deem to be doing something", meaning that they pretend to be doing something ostentatiously. Chairman, frankly speaking, according to your conscience, regarding a Certainly, there are many small companies which need to raise funds and also have a share capital. Their negligence is understandable, since the managers of such small companies are mostly illiterate. The amount of fine paid by small companies is the same as those paid by companies with a market value of hundreds of millions of dollars, or even as high as 1 billion dollars. The latter likewise do not know how to use the electronic stamping service, and the same penalty applies to all.

Can a method be adopted under which companies with a higher amount of share capital has to pay a higher amount of fine? Should it be like this? If small and medium enterprises (SMEs) are to be protected, why SMEs are fined \$700, while a company of LI Ka-shing is also fined \$700? Is such a punishment right? Frankly speaking, Chairman, I am very lazy, and I had not read the Bill until LEUNG Chun-ying recently requested me to monitor the Legislative Council. He respects us very much nowadays, so that I must respect myself by reading the Bill. I am perplexed.

Think about it. How can the legislation be fair? All people should be treated the same, but some people are treated more favorably than the others. The same rule also applies from the other way around. It means nothing if the super rich people are fined \$700; but for poor people like me, they will certainly feel the pain if they are fined \$700; people poorer than me will feel the excruciating pain if they are fined \$700.

Therefore, Chairman, how can you blame Members of this Council for speaking in this Chamber? We voice our views to point out that the legislation should not be enacted in such a perfunctory — Chairman, am I using this word correctly, I hope I am not wrong this time — manner; being perfunctory is certainly not desirable. Chairman, I think the Bill does not make sense. It does not make sense with regard to protecting SMEs and combating the illegal acts of big enterprises.

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

(Mr WONG Yuk-man stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, you are speaking for the third time.

MR WONG YUK-MAN (in Cantonese): I talked about clause 8 on company limited by guarantee just now. Some small and medium enterprises suggested introducing a simple deregistration procedure for such companies. We supported this suggestion but to no avail.

For companies registered as a guarantee company in Hong Kong, as I said just now, they include benevolent associations, alumni associations, clansmen associations, academic and charitable organizations, or even merchants associations, as well as political and civil groups. For example, People Power is registered as a society, but some organizations are registered as a company. Therefore, people are of the view that political party law should be introduced in Hong Kong. Why is this related? After the establishment of a company, even if its members, due to various reasons such as monetary dispute, company

obligations and internal discord, cannot perform the duties stipulated under the law, the company still needs to carry out certain work, such as submitting annual return, auditing, tax reporting and accounting. Political groups usually do not know how to manage their money, and eventually they end up fighting or breaking up due to monetary disputes. However, as they are registered as a company, and how can such problems be solved? People who have managed societies know that there are many problems of this kind. Is a members' meeting the same as a shareholders' meeting? Is a council the same as a board of directors? What about a board of supervisors? For example, requirements concerning tax reporting or making a return under the companies law are really so strange that I do not know how to deal with such matters. We have our accounts audited each year, and that is the most important. There are accountants helping us to make annual return, submit tax returns, apply for business registration and deal with accounting issues. Another situation is that some political organizations collect membership fees, some do not; some companies accept the appointment of proxies at the time of voting, some do not.

Under the Companies Ordinance, can there are actually political groups, civil groups, benevolent associations, clansmen associations and even alumni associations registered as a company. Supposedly, these bodies should act in compliance with the relevant provisions of the companies law. How can they do so with frequent changes of membership? They generally have two sets of rules, one for compliance with provisions relating to company registration, and the other for compliance with their own charter as a political party or an organization. In the case of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), issues such as members' rights and obligations are dealt with in accordance with the provisions of the charter. Instead of a board of directors, there is a central committee, a central executive committee, a central standing committee or an executive committee. All in all, the authority is known as a committee, irrespective of whether it is called a central executive committee or a central committee. Some even have a central discipline committee, I am not sure whether the DAB has one, but the Democratic Party has a discipline committee. With two sets of rules, how would problems be dealt with? I often ponder how to deal with the problems. In rewriting the companies law, should there be relevant provisions to specifically deal with such "companies"? Since they are actually limited companies registered with the Companies Registry under the companies law, they should be subject to the Companies Ordinance. However, in actual operation, these bodies are not

companies, they are not even profit-making organization, and they do not have shareholders. In this context, how should they be dealt with?

In accordance with clause 737 of the Bill, guarantee companies have the right to apply for deregistration, but the procedure is complicated and costly. Therefore, this option is not usually considered by guarantee companies. This situation not only causes trouble to members of guarantee companies, but also brings a lot of problems to the relevant government departments. The existence of a great number of disputable guarantee companies makes it more difficult for the Government to conduct examination.

Hong Kong is very strange. As Mr Albert CHAN pointed out earlier, there are many such companies among the some 900 000 companies. Being registered as a company limited by guarantee, it has to comply with all requirements applicable to a limited company, but in terms of actual operation, it is very different from a common limited company which engages in trading. However, this is an objective fact. How can such problems be solved? For example, can societies be uniformly required to be registered in the name of a society?

However, this reflects another problem. The existing law governing society registration is a draconian law restored after the reunification. Applicants should go to a police station to hand in application. The issuance of letter of no objection is a case in point, which plays on words. What is a letter of no objection? Application must be made before holding a public meeting, and the authorities will only issue a letter of no objection instead of indicating its assent. The authorities will only issue a letter of no objection instead of granting approval; in fact, it can issue a letter of objection. The reason given by the authorities is that they do not often issue letters of objection; they generally issue letters of no objection. However, before the reunification, there was no need to apply for holding public meetings or processions, and letters of no objection issued by the authorities were not required. The same situation also applies to society registration. All information must be submitted, and certificate from the police is needed for opening a bank account. How troublesome it is. In a society considered to be free and open, why do I have to face so many troubles? It is better to spend several thousand dollars to engage an accountant to establish a company for me, and simply name it White Dove Party Company Limited. We have registered a company called Pan Democrats Company Limited. Therefore, regarding the name of Pan Democrats Company Limited, you should

not argue with me. I can sue you for claiming to be pan democrats, because I have really registered a company called Pan Democrats Company Limited. No one else can use the name of Pan Democrats Company Limited, since I have already registered it. I am not joking. Chairman, you may not know about this fact, but you can search the website of the Companies Registry and get a company called Pan Democrats Company Limited. As we were being evicted at that time, and they claimed that we were not pan democrats, I had someone register a company called Pan Democrats Company Limited.

Chairman, I have not deviated from the subject. The fact that I can register a company in the name of the pan democrats well illustrates, from another perspective, that Hong Kong really provides a free environment for business operation. Anyone, John or Mary, or even one without a penny, can register a limited company. Besides, many registered limited companies are currently not in operation, and all that are required are the payment of business registration fees, submission of an annual return and submission of tax return with the word "NIL" written on it. This is very simple, one does not need to hire the service of an accountant, he can do it himself. Is this right, Secretary?

Hong Kong provides a pretty free business environment, and anyone can register a company and be the boss of a shell company. The registered share capital can be merely 100 shares, with dozens of dollars, \$100 or \$1 per share. Political group registered as a company is subject to the companies law, but it is actually not a limited company with a share capital. How can a political group have shares? Guarantee companies have no shares. How can such companies have shares? How are they supposed to divide their shares when assets are involved? For political parties having party assets, it is a headache as how the assets should be allocated in the future. That said, with a change in membership and leaders, to whom do party assets belong? Do they belong to party members in general so that every one has an equal share? Or do the assets belong to the central committee, central standing committee or the chairman? What about after the change of term of office? What about a leader being compelled to step down? There are so many problems of this kind. In fact, at the scrutiny of the Companies Bill, I do not know of the Bills Committee I have checked the relevant minutes and found that few people had talked about this issue.

Chairman, such disputes do not only exist in political groups, but also in benevolent associations and clansmen associations. I am pretty sure that rightist groups — I was a rightist in the past — many rightist groups had such problems.

I think it is the same case with leftist groups, because as long as there are people, there are power struggles. Certainly, such problems exist in companies, but computation can be made by the number of shares. As often seen in television drama plots, I buy your shares, and you buy mine. However, in benevolent associations, clansmen associations or civil groups, how can shares be sold to another party? As such, they need to conduct voting by members, and some political groups have therefore introduced "proxy voting".

"Proxy voting" means that a small number of members can control the entire party. In Hong Kong, there is already one such party, which has introduced proxy voting. That party is controlled by a small number of people, who made a decision to oppose the five-district referendum movement, and support the constitutional reform package. That decision was made by several people. Under all sorts of pretexts, an extraordinary general meeting was subsequently held by the appointment of the so called proxies. What is an extraordinary general meeting? In accordance with the companies law, it should be an extraordinary meeting for shareholders, right, Secretary? Resolutions were passed at that meeting — resolutions adopted by a small minority — and decisions in contravention of public interests were made.

Certainly, among companies engaged in trading, there are also such situations. A small number of shareholders in my case, for example, I was once chairman of a listed company. Due to the bursting of the dot-com bubble, the share prices of that company plummeted, and became worthless, and my shares were being "annihilated". As a major shareholder, I originally held a large number of shares, representing a certain percentage of the total, but my shares were gradually diluted. Under the approach of rights issues, I eventually lost all my shares. Buddy, I originally held a certain percentage of shares, but my company ended up being "swallowed". In the face of rights issues, I lost lose all my shares, because I had no money to accept the rights issues.

Therefore, as I have once said, rights issues can actually take place in politics, and profits can likewise be diluted. In some political groups, such things can actually happen. They are all rigging votes. The democrats accuse the others of vote rigging, but are they not rigging votes? Buddy, they are rigging votes within their own party. Three or four people named CHEUNG, LEE or YEUNG can therefore control the entire party. I am not referring to you, but I am only looking at you.

Was this not diluting others shares? I was forced to accept rights issues until I lost all my shares. Therefore, I think there should be several provisions under the companies law in line with Certainly, the Chairman is looking at me again, and he probably believes that I am deviating from the subject. When I make my remarks, I will sometimes express some of my personal feelings. I think regarding some matters, we can learn by analogy and this can be inspiring

CHAIRMAN (in Cantonese): Please speak on the details of the provisions.

MR WONG YUK-MAN (in Cantonese): Got it.

Therefore, introducing a simple deregistration procedure for guarantee companies will benefit the various parties. When political parties need to deregister, it will be more convenient for them to do so. The financial positions of such companies are relatively simple in most cases, and there are not too many matters relating to deregistration that need to be dealt with. Guarantee companies are not too much different from other limited companies in terms of their characteristics; most of them are not profit-making organizations. Therefore, they can be dealt with in a special manner.

Such civil groups, benevolent associations, clansmen associations and political groups can all be classified as guarantee companies, and a simple deregistration procedure can be introduced. It will be so good to deregister that political party. Some people may not recognize this, but a New Democratic Party can be established. During the era of the former League of Social Democrats (LSD), someone registered the LSD as a company, fearing that I would register it. They gauged a gentleman's heart with their own mean measure. As a result, the two shell companies are left idle, and money needs to be spent on the renewal of business registration certificates each year. A lot of money has thus been wasted. In fact, I have not finished my speech in this regard.

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

(Mr Albert CHAN rose to request a headcount)

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

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

(Mr Albert CHAN rose to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr Albert CHAN, you are speaking for the fourth time.

MR ALBERT CHAN (in Cantonese): Chairman, when you say the number of times a certain Member speaks and when that number keeps increasing, I start to worry that you may again invoke Rule 92 of the Rules of Procedure to cut short the filibuster. I hope this will not happen this time, Chairman.

CHAIRMAN (in Cantonese): When Members have spoken for a number of times, I have to remind them not to repeat and do not deviate from the subject.

MR ALBERT CHAN (in Cantonese): Chairman, I have made no repetition. I start from clause 4 and just now I spoke on clause 35. When I spoke on clause 35 earlier, I also quoted clause 40, and clause 41 can be discussed together, for the provisions are interrelated. On the whole, regarding the concern that the provisions involve a lot of legal proceedings, I think there are two relatively easy ways to address the concern. The first method is by mediation. I have talked about this earlier, so I will not repeat now.

Another method, which is relatively better As I said earlier, there are over 900 000 companies in Hong Kong, thus the disputes and problems involved will be numerous. This is related to clauses 35, 40 and 41, and various clauses thereafter. The other method is to adopt a mode similar to the practice of

committees to handle, by administrative means, the issues relating to the Registrar. As for other legal disputes, we may draw reference from the practice of the Labour Tribunal and establish the Company Tribunal to handle the relevant issues. Some simple disputes can be handled by the tribunal and both parties do not have to employ lawyers to solve the problems.

This practice is definitely conducive to developing Hong Kong into a registration centre for international companies. This will also encourage the establishment of small and medium enterprises (SMEs) which do not involve much capital or do not have many employees, for such practice will surely reduce their costs. Through summary legal proceedings, disputes will be handled more easily, and SMEs need not face the problems of increasing costs and financial burden, which will affect their operation.

However, in drafting the provisions, the views of small tenants, the general public and small investors have never been taken into consideration. The provisions are drafted from the perspective of large enterprises, technical bureaucracy

CHAIRMAN (in Cantonese): Mr CHAN, you are repeating your argument.

MR ALBERT CHAN (in Cantonese): I am talking about the tribunal, Chairman, this point is not a repetition.

As for the other part of the Bill, Chairman, I would like to remind Members that clause 32 is a very special provision. Concerning the delivery of documents by electronic means, it is mentioned in clauses 30, 31 and a number of previous provisions. Certainly, it is not stipulated in the legislation that the Registrar may specify the use of electronic means, and either electronic means or printed copy is acceptable. The legislation basically states that the Registrar cannot specify that electronic means must be used.

However, Chairman, I think the arrangement and practice in clause 32 is a breakthrough. Clause 32 stipulates that, "The Financial Secretary may make regulations requiring delivery by electronic means for section 29(1)", which is related to the handling of relevant documents. Section 29(1) is about

unsatisfactory documents, which includes paragraphs (a), (b), (c), (d), (e), (f) and (g). I am not going to read out those paragraphs, lest someone says I am filibustering.

I just want to bring out a conceptual issue. Clause 32(2) stipulates that "The regulations are subject to the approval of the Legislative Council". Chairman, as far as I remember, in the past 20 years, we have been striving that a number of ordinances or requirements must be approved by the Legislative Council, but none of our proposals had been accepted by the Government. These include the tariff increases of the two power companies, the fare increases of the MTR and the recruitment of Secretaries for Departments and Directors of Bureaux. In respect of politics, social policies and people's livelihood, the disputes have been going on for years, yet it has never Chairman, since we are discussing an issue of great significance, I hope more Members would join us. I request a headcount.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue.

MR ALBERT CHAN (in Cantonese): Chairman, I thank Members for returning to the Chamber to listen to me. Just now, I pointed out that it is a historic breakthrough to stipulate in clause 32 that if the Financial Secretary makes regulations concerning unsatisfactory documents and requires that the documents must be delivered by electronic means, the regulations must be approved by the Legislative Council. It seems that the status of the Legislative Council has been uplifted suddenly.

The mutual monitoring as well as the check and balance between the executive authorities and the legislature are of utmost importance. In fact, if the requirement on using electronic means for delivery of correspondence between a

specific company and the Registrar must be approved by the Legislative Council, I see no reason why the tariff increases of the two power companies, fare increases of the MTR and issues involving significant public interest do not require the approval of the Legislative Council. Chairman, I do not know whether this arrangement will trigger significant constitutional changes or attempts, because over the 15 years since the reunification, the Government has been using administrative power to

As we all know, certain specified powers of the Legislative Council in making subsidiary legislation have been gradually abolished. Basically, there are two categories of subsidiary legislation. One category of subsidiary legislation will become effective only with the approval of the Legislative Council, and another category of subsidiary legislation will be effective by merely giving notification to the Legislative Council, and if the Legislative Council wants to negative such subsidiary legislation, it must propose a motion for this purpose. In the past, particularly in the past few years, many pieces of subsidiary legislation have been made under the second category, and the power conferred by the Legislative Council Ordinance on the Legislative Council for approving subsidiary legislation formally is decreasing. We are aware of the deteriorating relationship between the executive authorities and the legislature.

However, this strange arrangement is suddenly made under the Companies Bill. Certainly, the power is very small under this provision, and we can hardly figure out under what circumstances unsatisfactory documents should be required to be delivered by electronic means. I wonder if the relevant documents involve some overseas practices or unique arrangement, or there are printing problems. In general, the executive authorities should have the authority to decide on the practice to be adopted, yet the executive authorities refuse to make the decision unilaterally and request the approval from the Legislative Council. It seems that for unpleasant issues, or issues which companies will definitely oppose or dislike, the Government will exploit the Legislative Council to undertake the political responsibility for the Government. It is a mere guess, for I am not familiar with issues in this aspect and I do not know under what conditions

Certainly, clause 29 has set out the types of documents involved, but under what circumstances will this unique requirement arises

(Mr WONG Yuk-man stood up)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, what is your point?

MR WONG YUK-MAN (in Cantonese): A quorum is not present.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): It is now 7.10 pm. Though Mr Albert CHAN has not finished his speech, I worry that if the summoning bell has to be rung again later, Members may have to run back to the Chamber in the middle of their meal. Therefore, I now suspend the meeting until 8.15 pm.

7.09 pm

Meeting suspended.

8.13 pm

Committee then resumed.

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue.

MR ALBERT CHAN (in Cantonese): Chairman, Members are a bit tired. Yet, I still request a headcount first, so that I can take a short rest before I continue.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue.

MR ALBERT CHAN (in Cantonese): Chairman, just now, I spoke on clause 32. I am surprised by the requirement that the regulations must be approved by the Legislative Council. It is a sudden and significant change in the relationship between the executive authorities and the legislature, for the Government has suddenly shown great respect to the Legislative Council. In fact, we would know the reason clearly by reading paragraph 52 of the report of the Bills Committee. Chairman, if Members would like to speak, they may stand up to speak, I welcome that.

It is stated clearly in paragraph 52 that clauses 29 to 34 empower the Registrar to refuse to register an unsatisfactory document. It is obvious that many provisions are indeed drafted with reference to relevant provisions in the United Kingdom Companies Act 2006 (for example, the provision on Registrar's requirement as to form, authentication and manner of delivery of documents) and the Australian Corporations Act 2001 (for example the provisions on Registrar's refusal to register or withholding registration of unsatisfactory documents). In drawing reference from international trend, the Government has heeded advice and made adjustment by stating in the Companies Bill that the relevant arrangement must be approved by the Legislative Council.

I hope that other Policy Bureaux, particularly those dealing with issues related to constitutional system, public utilities and people's livelihood, will adopt the spirit and follow the arrangement made by Secretary Prof K C CHAN in formulating the relevant provisions in the legislation and respect the Legislative Council. I have to commend the Secretary highly for making a breakthrough in the relationship between the executive authorities and the legislature. This will also let Hong Kong people know that the Legislative Council is not a monster and a co-operative relationship can be established. Certainly, the Legislative Council will be very serious in discharging its duties.

Moreover, I would like to talk about the time limit relating to the provision in clause 34 that allows the Registrar to withhold the registration of the document pending for further details. Chairman, in fact, the Law Society had put forth some views. In the first round of consultation, the Law Society had pointed out that the legislation should require the Registrar to reply within a certain period whether or not the documents delivered for registration would be accepted.

However, the Government turned down the proposal. I believe clause 34 will also be passed today.

However, I hope that the Government may give a performance pledge In fact, regarding the handling of documents, the Government will not make express legal provisions at present. Certainly, the Law Society must have important reasons in the legal context for putting forth this significant request. Regarding the handling of the relevant documents submitted by companies, I think it is perhaps desirable to stipulate in the legislation a clear time limit for the Government to give reply.

Certainly, we are also fully aware of the usual practice adopted by the Government. The Government is always concerned about its own convenience. It always provides the greatest flexibility for itself, but imposes the strictest restrictions and penalty on the public. More often than not, it acts this way. Take the Personal Data (Privacy) Ordinance, which we discussed earlier, as an example. If the Government makes mistakes and if civil servants fail to act in accordance with the Ordinance, the penalty involved is very light, and no imprisonment will be involved. However, if a member of the public makes a mistake, say violating the legislation on housing or concealing facts in providing information for registration, he or she will be liable to imprisonment. This again lays bare the truth that the Government only concerns about its convenience and ignores the difficulties of the public.

The Government does not respect the professional opinions of the Law Society. In enacting legislation in the 1990s, 9.9 out of 10 amendment proposals put forth by the Law Society would be accepted, as I noticed in the committee I had participated, and the Government seldom rejected the proposal of the Law Society. However, in recent years, there is a trend that the Government is inclined to adopt administration hegemony. It does not respect the largest professional organization. Regarding this situation — please put it down on record — I must express profound regret and my strongest dissatisfaction, or even condemnation against the Government.

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

(Mr LEUNG Kwok-hung stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, this is the third time you speak.

MR LEUNG KWOK-HUNG (in Cantonese): Actually, legislation should certainly be enacted with serious thinking and circumspection. "People who concern about the world will only consider issues which they consider difficult but to the neglect of simple matters, and will only be vigilant on matters which they are afraid of but to the neglect of non-dubious issues." I think this statement best describes all of you. It is ridiculous to consider only the difficult issues. Buddy, you will be susceptible to offences! The Government has been beating around the bush all the time. When we were examining the legislation, it suggested that certain loopholes had to be plugged, but it had actually turned a blind eye to attempts of hijacking.

I want to talk about clause 197

(Mr WONG Yuk-man stood up)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, what is your point?

MR WONG YUK-MAN (in Cantonese): Will the Chairman please ring the bell to summon Members to the Chamber.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, please continue with your speech.

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, I want to talk about clause 197, subsection (1) provides that "An official document of a company that states the company's issued capital must also state no less prominently the company's paid up capital." In this subsection, the phrase "must also" is highlighted. This provision is certainly related to the previous clause. Subsection (2) provides that "If a company issues, circulates or distributes an official document in Hong Kong that does not comply with subsection (1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3."

The most important thing about this Bill is the removal of the reference to "authorized capital" Chairman, you need not search for the term, for it no longer exists. The term "authorized capital" can only be found in the former Companies Ordinance but not in this Bill. This Blue Bill cannot help you anyway. As the Companies Bill (the Bill) proposes to introduce a mandatory no-par system, the key of clause 197 "Notice of paid up capital" therefore lies in the concept of crime and penalty. In the eyes of the mortals, crime and penalty are not proportionate because there is no penalty for the crime committed, or crime does not lead to penalty. Crimes are not crimes.

When we discussed whether I should leave this Council, I had mentioned two types of crimes. One is the original sin, which makes people feel unsettled and uncomfortable. Nonetheless, most people think that crime is crime when it is considered so in human society, and this will change with the times.

The fine at level 3 specified in the Bill is, according to my rough understanding, actually \$10,000. But what is the use of \$10,000 in these days? Imposing a fine of \$10,000 on a company Very simply, the requirements stated in the Bill are pretty simple and fundamental. In other words, since what you are supposed to do is not so difficult, not much description has been given in the Bill. You will have impunity if you have reasonable defence, or if you can prove that you have done your very best to prevent what had happened. Honestly speaking, this is tantamount to scratching an itch. What can be done then, buddy?

Chairman, I understand what Mr Paul CHAN means and this legislation has enabled minor shareholders I once said that a few people can set up a business in partnership, for example, Mr Paul CHAN and I each contribute

\$5,000 to set up a business in partnership. Minor shareholders are very miserable. Honestly speaking, would people running such small-scale business bother to take any matter to court? When I was child, my mother used to operate chit fund business. She set up something like a bank and asked people to contribute some money. If a person wanted to borrow money, he would have to pay a high interest rate. Why bother to spend so much effort on this kind of partnership? Partnership or not is immaterial.

The legislation must seek to deal a blow to "predators" rather than ordinary citizens. If an offender is willing to pay \$10,000 for the crime he has committed, he must be a "predator". Furthermore, Chairman, I wish to draw your attention to something weird about this Bill. Unlike another provision which I have mentioned earlier, which calculates the amount of fine on a daily basis, this provision does not provide for the calculation of a fine according to the number of days during which the offence is proved to have continued. The point is, it is a problem if the fine is not calculated in accordance to geometric progression The best approach is to calculate the fine by such method, so as to deter the offenders from challenging the law. The Bill has provided for a fine at level 3, which is \$10,000, but what will the offenders have to lose? If the requirement of the Bill is so simple and fundamental "Authorized capital" is just an empty word, right?

As for the requirement to "state no less prominently", what is so difficult about this? For those who intend to conceal Chairman, I did not read out wrongly. Take the Lehman bonds as an example, in the relevant contracts, the words "this product is not necessarily a bond" were written in extremely small font size. It was too bad if investors failed to notice them. In this connection, honestly speaking, if the business turnover of a businessman is hundreds of millions of dollars or just one tenth of it, that is, tens of millions of dollars, what is the point of imposing a fine of \$10,000 on him? Who should be liable for compensation if the victims suffer losses for failing to read those words?

This is the key issue of the entire Bill, which has failed to take into account of changes in modern society and inflation. While \$10,000 might be a large sum of money in the past, it is not enough to buy 1 ounce of gold today. Is it enough? It is enough, I get it. It is enough to buy 1-odd ounce of gold as I

have recently won a gold coin. What deterrent effect does \$10,000 serve when it is not enough to buy 1 tael of gold? What is the point?

What is the crux of the problem then? I have mentioned "The Theories of Deep Thinking" earlier, which says that "People will only be vigilant on matters which they are afraid of but to the neglect of non-dubious issues. Yet, disasters often happen amidst oversight, and confusion often arises from unsuspecting incidents"¹. Officials always believe that large-scale companies will not do such things, and even if they do so, it is just a matter of negligence. My God! What if they do it intentionally? In order to make them feel the pain, officials should make reference to what you did to me: "Mr LEUNG, if you continue to speak in this way, I will drive you out of the Chamber." As I am fully aware of the pain, I will not repeat or digress from the subject anymore. The point is that you sanction me because you are the Chairman, and you have the common sense. We have chosen you and given you the power. However, after this Bill is enacted using our rubber stamp, the law-enforcement officers would not behave like you and think before acting. The fine is \$10,000, regardless of the size of the companies. When enforcing the law, the Government might say to those small-scale companies, "Why would large-scale companies do the same thing like you?"

That is why I have reiterated time and again that when the law is enforced, there must be different levels of punishments. For example, the larger a company is, the more stringent the punishment should be. The more capital a company has, the heavier the fine should be. This is because a company can supposedly cheat more money with more capital. How will members of the public be convinced with the rigid imposition of a mere fine of \$10,000?

In fact, on this issue, I think that some incumbent officials I certainly do not mean to say Secretary Prof K C CHAN. I dare not offend him as he has served in two different regimes. What phenomenon has actually occurred in modern society? In modern society, people have knowledge but no culture, people have skills but no common sense, or people have professional knowledge but no thinking. One of the phenomenon found in our society is, we have skills but no common sense. Common sense is a piece of cake. Just imagine if you

¹ <http://www.cirs.org.hk/Advent04_ce.asp>

lose \$10,000, will you feel so bad that you want to die? No, you will simply forget it. In the past, this \$10,000 might mean a lot to some people. Is it better to add "a zero" to that \$10,000 in the Bill? Or, how about adding "two zeros" or introduce a tier of fines. This is a problem of having skills but no common sense. This is merely a technical revision and not much change has been made. It would be better if the term "authorized capital" can be removed. But we cannot do without it either. And yet, I am not going to talk about this at the moment.

Chairman, another point is "If a company issues, circulates or distributes an official document in Hong Kong that does not comply with subsection (1), the company, and every responsible person of the company, commit an offence". What if the company concerned does not issue the document in Hong Kong? Of course, I am not referring to the case where the document is issued in Kowloon or the New Territories. The query arises when the company concerned issues the document in some remote places like Bermuda or Bahamas. Is there any problem with this? When I ran in the election, why It is an offence if a woman does not wear a veil in Paris, and also in the Middle East. Once you are convicted, you cannot choose the term of imprisonment.

The obsolete colonial laws have strongly suppressed people's political rights, whereas for mercantilism Chairman, as I have said time and again, colonialism was originated from mercantilism. Mercantilism means businessmen can walk out freely as they have opened up the business territory Therefore, businessman is the key to the entire Bill. If a businessman has made a mistake, the Government may think: firstly, he did not do it intentionally; secondly, the punishment should not be too severe as this is detrimental to the prosperous business operation. This is the so-called "positive non-intervention", meaning that the Government should keep its hands off business acts by all means. In case there is a need for intervention, the Government should make sure that the intervention is either acceptable or tolerable to the businessmen. Or else, this is not justified. Being a publisher receives \$10,000 whereas the fine for committing a serious offence is also \$10,000. A publisher can simply walk away after paying the fine, unless he has committed other offences.

None of the officials feel ashamed of such an obsolete legislation, but have even tabled it at the Legislative Council in a high-profile manner, saying that "The fine has four zeros in the past, and it remains unchanged". Buddy, what

kind of Bill is this? Are we in Indonesia? The reason is I really have nothing to say as the entire Bill is completely illogical. While some companies pay a fine every day, some do not. Logically speaking, why are some companies required to pay a fine every day but not the others? There is such a provision in the law relating to the contempt of the Legislative Council. If I stage a protest upstairs time and again, both the penalty and the fine imposed on me will not increase anyway. However, if I forget to bring the relevant documents, both the penalty and the fine will increase as they are related to the number of cases.

Chairman, what can we do when there is neither logic nor pity? Chairman, I do not want to say any more and should stop right here.

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

MR WONG YUK-MAN (in Cantonese): Chairman, I am going to speak on clauses 12 to 14 of the Companies Bill (the Bill). Clauses 12 to 14 are a rewrite of sections 2(4) to 2(7) of the Companies Ordinance (the Ordinance).

Regarding the rewrite of the Ordinance, I recall that during the Second Reading of the Bill — Chairman, if your memory does not fail you, you should remember that I once mentioned the basic principle of rewriting the entire Ordinance is to modernize the drafting.

In my view, with regard to the amendments of these provisions, some revisions have actually been made according to this principle. I must, on a rare occasion, commend these revisions as the drafting of clause 12, in particular, is really an eye-opener. I did not elaborate on the relevant principle last time, but since we are talking about the rewriting of clause 12, I consider it necessary to give a detailed account of it so as to keep Members who are falling asleep awake.

The Government, especially public officers who drafted the Bill, was aware of the need to draft an amendment bill for this complicated and voluminous ordinance using creative or "modernized" drafting method, as described by the Government. While it used the word "modernized", I find it too abstract. Does it mean "post-modernized" or what? In order to be more specific, firstly, the structure of provisions should be less complicated so as to improve the readability. Secretary, I like to hear this very much. Whenever I participated

in the deliberation of a bills committee, I would be infuriated by the Chinese provisions as they are difficult to read and written in grossly Europeanized sentence structures. There is no pause in a 49-word sentence, together with so many connective words like "or" and "and". They are deadly confusing. This is the result of the longstanding mechanical translation of English-drafted legislation into Chinese, which has nonetheless remained unchanged.

And yet, this time, the Government attempted to make some changes in the Bill, and I think that this is commendable. Did the Government succeed or not? This can be seen from the revision of the relevant provision, and I opine that the revision made in clause 12 is not bad.

A change in the structure of provisions is, for example, the numbering of the divisions. As Members may be aware, the letters "I", "i", "A" or "a" may be used in legal provisions, which are pretty confusing. Sometimes, Arabic numerals are also used. All these make us feel so dizzy.

We must therefore be very careful when reading these provisions, or else we will make a mistake. The first improvement made by the Government is to group different provisions under various divisions, such as Division 1 and Division 2, and there are also subdivisions. When we learn to write academic articles, sometimes

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, a point of order. I request you to recall, according to Rule 17(3), the Member who claimed to attend the meetings day and night and night and day, as he is not present at the meeting.

He was just bluffing. Instead of attending meetings day and night and night and day, he has simply disappeared.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, please continue with your speech.

MR WONG YUK-MAN (in Cantonese): Some people find the summoning bell very annoying. Since Ms Starry LEE is now a Member of the Executive Council and commands great respectability, she has become so arrogant as to criticize the launching of filibustering. Filibustering and a lack of quorum are two different concepts, okay? They should not be confused.

When a quorum is not present at the meeting, we may request a headcount according to the Rules of Procedure

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, you are speaking for the fourth time, so please speak on the relevant provisions.

MR WONG YUK-MAN (in Cantonese): I think our Chairman is very miserable. He has repeatedly and unequivocally reminded Members to return to the Chamber as early as possible in order to save some time. However, Members insisted to stand outside for eight to 10 minutes before entering the Chamber, what does this have to do with me? Instead of accusing us for wasting time

CHAIRMAN (in Cantonese): Mr WONG, please speak on the relevant provisions.

MR WONG YUK-MAN (in Cantonese): In the last meeting, Ms Audrey EU also said that Ms Starry LEE was the last person to enter the Chamber. Now, we cannot even see where Ms Starry LEE is

CHAIRMAN (in Cantonese): Mr WONG, if you continue to digress from the subject, I will have to stop you from speaking. Please speak on the details of the relevant provision as you are now speaking for the fourth time.

MR WONG YUK-MAN (in Cantonese): The fifth time should be coming.

Going back to the structure of provisions — just now my speech was interrupted — modernization of drafting is a new initiative of the Financial Services and the Treasury Bureau as the rewriting of the Ordinance is indeed too complicated. The original way of presentation has nonetheless made people feel dizzy.

You must be cautious with your words, or the Chairman will throw you out at any time and end the filibustering. I should better be more polite and respectful to the Chairman, and be a "yes-man", Chairman.

CHAIRMAN (in Cantonese): Mr WONG, you have digressed from the subject again.

MR WONG YUK-MAN (in Cantonese): For example, general interpretation provisions are usually placed at the beginning whereas the exceptions to general rules are always placed together within the same Division or Subdivision. Related but widely-separated provisions have also been placed closer together. I am going to give an account of your Secretary, perhaps you are not aware of this either. From the look on your face, I guess that you also feel pretty puzzled. This is the change in structure.

Furthermore, it is the length of provisions. After rewriting, the Ordinance has been shortened. The subsections have become more specific as not many have remained. Also, there are the cross-references. Initially, I have no idea of what they are, but now I know. It means that unnecessary cross references would be eliminated by all means.

Looking back at clauses 12 to 14, they are concerned with the statutory interpretations of holding company and subsidiary. These interpretations are very important, Chairman, for they may affect the applicability of certain provisions of the Ordinance. For example, the Ordinance has provided specifically for the compilation and issuance of accounts of holding companies and subsidiary, the role of auditors, as well as the restrictions on the rendering of loans by directors and shareholders.

Secondly, the Bill has adopted the relevant statutory interpretation of section 2 of the former Ordinance. As I have said right at the beginning, I have studied section 2 and we are therefore well prepared. This is a printed copy of the original provision, and that is a copy of the Blue Bill. Both show the interpretations of clauses 12 to 14, so we can compare the differences and see if the Bill complies with the principle of modernized drafting, as I have said earlier. Of course, it is most desirable if other bills also adopt modernized drafting.

Going back to clauses 12 to 14, the so-called statutory interpretation has adopted the relevant statutory interpretation of section 2 of the former Ordinance. We notice that certain provisions in the Bill and clause 13 are more thorough than the section 2(6) of the former Ordinance.

I also agree that the relevant changes help clarify, under specific circumstances, such as holding shares or debentures of the trust or lending business — the holding of shares or debentures of the trust or lending business is regarded as specific circumstances — whether or not a company controls another company? This must be clarified.

After all, the relevant provisions of the former Ordinance were enacted 38 years ago in 1974. There is definitely a need to appropriately update them in the light of the complicated business world nowadays. Amending the rendition of "holding company" ("控股公司") to "控權公司", Chairman, can better reflect the statutory interpretations of holding company and subsidiary.

This is made in view of the control and influence of a holding company on the subsidiary, but not the number of shares of the subsidiary held by the holding company, which is the traditional yardstick. The traditional yardstick is the number of shares of the subsidiary held by the holding company ("控權公司"), which is previously called "控股公司". However, according to the present statutory interpretation, the major consideration is the holding company's control and influence over the subsidiary. This is the contemporary yardstick. The yardstick laid down in 1974 has therefore been outdated whereas the contemporary one is consistent with the guidelines of the European Union.

Earlier, I said that the drafting of clause 12 is more specific. Let us look at the terms "前者" ("body corporate"), "後者" ("another body corporate") and "第三者" ("that other body corporate") in clause 12. The amendment is pretty

interesting. What is meant by "holding company"? Firstly, "For the purposes of this Ordinance, a body corporate is a holding company of another body corporate if (a) it controls the composition of that other body corporate's board of directors; (b) it controls more than half of the voting rights in that other body corporate; or (c) it holds more than half of that other body corporate's issued share capital."

Let us look again at subsection (2), "For the purposes of this Ordinance, a body corporate is also a holding company of another body corporate if it is a holding company of a body corporate that is that other body corporate's holding company." I am not going to read out the rest of it. Here, the terms "前者", "後者" and "第三者" have been used, which is more comprehensible. If Members do not get it, they can look at sections 2(4) to (7) of the existing Ordinance, which will probably make them feel dizzy. Subsection (4) provides that "For the purposes of this Ordinance, a company shall, subject to the provisions of subsection (6), be deemed to be a subsidiary of another company, if (a) that other company: (i) controls the composition of the board of directors of the first-mentioned company; or (ii) controls more than half of the voting power of the first-mentioned company; or (iii) holds more than half of the issued share capital of the first-mentioned company (excluding any part of it which carries no right to participate beyond a specified amount in a distribution of either profits or capital); or (b) the first-mentioned company is a subsidiary of any company which is that other company's subsidiary." I may blackout if I read on. This chunk of words has now become clause 12. Is it not much clearer? Is it not much clearer to put "前者", "後者" and "第三者" into brackets and define the term "holding company"? Therefore, Secretary, are your staff or the person who drafted the Bill not worth commending? They have actually drafted the law following the principle of modernized drafting.

Members may feel dizzy when they look at the interpretations set out in the former Ordinance. The basic meaning is actually the same but the presentation is now much clearer. Paul, am I right? They are no longer ambiguous, right? Looking back at the original provisions, what is meant by "首述" (sau2 seot6) ("first-mentioned")? I almost fainted. "首" means the first time and "述" means mentioned. "First-mentioned" here means the company mentioned for the first time. Besides, there are "前述" (cin4 seot6) ("aforesaid") and "後述" ("last-mentioned") (hau6 seot6), right? The term "首述" may be misunderstood as "手術" (sau2 seot6) (meaning surgery), and thus arouses confusion.

Chairman, after the revision, is it much clearer with the terms "前者", "後者" and "第三者"?

Why do I need to highlight the difference between the proposed clause 12 and sections 2(4) to (7) of the existing Ordinance? This is because the change is not only an eye-opener, but also consistent with the details of the Annex of the paper tabled by the Government at the Bills Committee. This paper was issued by the Law Drafting Division, Department of Justice, in March 2011 during the deliberation of the Bill. After carefully studying the paper, I began to have confidence in the present drafting, and clause 12 is a good illustration of this point. Therefore, using simple drafting Of course, some provisions are still pretty difficult to understand. Nonetheless, the unprecedented move by the staff of the Law Drafting Division, Department of Justice, who drafted the Bill using simple presentation method is commendable.

We hope that when Mr Rimsky YUEN (who was a Political Advisor of Guangdong) takes office as the Secretary for Justice, he should better boldly carry out more reforms in law drafting. Given that he had been a Political Advisor of Guangdong, it is possible that he is proficient in Chinese according to our common sense or logic, which can be wrong. If not, why would he bother to shine the shoes of the Communist Party when he can work independently in the Judiciary to uphold Hong Kong's judicial independence (*The buzzer sounded*) He nonetheless refused and chose to be the Political Advisor of Guangdong.

CHAIRMAN (in Cantonese): Mr WONG, your speaking time is up. Does any other Member wish to speak?

(Mr Albert CHAN stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr Albert CHAN, you are speaking for the fifth time.

MR ALBERT CHAN (in Cantonese): Chairman, I am going to raise my query about the provision concerning an order made by the Court for the removal of any information which is not to be made available for public inspection. Chairman,

it is stipulated in clause 40(6), "If the Court makes an order under subsection (1)", where subsection (1) contained such wording, "on application by any person" while clause 40(6)(b) provides that "the order is not to be made available for public inspection as part of the Companies Register".

Chairman, court documents in general must involve certain disputes or major decisions, otherwise those cases will not have been brought to court. For court orders, they must involve certain interests or the rights and benefits of certain people that are related to the Companies Register. Regarding information, it all depends on the company in question. If it is a small company run by three people only, it does not really matter if whether the public know about the importance, impact or financial interest in respect of the information concerned.

In the past, very often when some companies had some abrupt changes, the public would be taken by surprise as if they were being awakened from their dreams. If court orders are involved, the interests of shareholders or stakeholders would definitely be impacted. Information concerning the orders and related issues is definitely related to the company in question, it has nothing to do with personal privacy. As such, why not regarded the orders as part of the Companies Register and make them available for public inspection? Evidently, it appears to me that this has deviated, in principle, from the original intent of drafting and formulating the entire companies law.

One of the main purposes for rewriting the Companies Ordinance is to enhance the transparency of companies. I believe that Mr Paul CHAN well understands that this is the original intent and rationale of the entire Ordinance. It is also the focus of the provisions. However, when the issue of handling of information by the company is involved, in particular, when powers of the Registrar for Companies (the Registrar) are involved, we find that basically, the provisions are inadequate in terms of transparency. It is expressly stated in that clause that the information concerned is not to be made available for public inspection, I really have no idea for the rationale.

Chairman, as you are also aware, when the Court makes a decision or issues an order, the party concerned may apply to the Court to order that certain information should not be made public, that is to say, if the Court is satisfied with the reasons given by the person concerned in making the above application, it may order the Registrar not to make public certain information. The decision

made by the Court is well justified because the party concerned has convinced the Court in the first place why certain information should not be made public. In the past, there were cases such as extortion cases involving celebrities, the Court would sometimes order the anonymity of the parties concerned; or in criminal cases involving minors, information would not be disclosed during the trial. This is the practice of courts in general.

However, Chairman, it is rare to specify in law that certain information should not be made available for public inspection. I do not know if members of the Bills Committee had been, in the course of scrutiny, convinced by the Government to accept this clause as drafted, in the light of the original intent of the Bill.

Clauses 37 to 42 are mentioned in paragraph 54 of the Bills Committee report, clause 40, which I pointed out just now, is of course included. As stated in that paragraph, "At present, the Registrar adopts administrative measures in appropriate cases to accept the filing of 'amended' documents to rectify documents which contain errors and to annotate the information in the Companies Register so as to provide supplementary information. In order to provide such measures with statutory footing, clauses 37 to 42 provide expressly powers for the Registrar to annotate information on the register to provide supplementary information, for example, the fact that the document in question has been replaced or corrected; and to request companies or their officers to resolve inconsistencies in information on the Register or to provide updated information."

The above paragraph has provided an explanation on clauses 37 to 42. As regards clause 40(6)(b) which states that court order should not be made available for public inspection, I do not see any explanation given in the report. The Bills Committee has not explained why such an unusual arrangement that violates or deviates from the original intent of the Bill is accepted. Chairman, I am surprised and find this a bit strange.

Certainly, the Secretary will not respond to most of the points mentioned in my speech, but I do hope that he will later give an explanation on this point, so as to put on record the deliberation at the Committee stage. If the Secretary can further elucidate the legislative intent, certain unnecessary legal challenges may be avoided in future litigations

CHAIRMAN (in Cantonese): Mr CHAN, do you know the contents of subsection (7) when you present your view?

MR ALBERT CHAN (in Cantonese): Chairman, subsection (7) belongs to another part which provides that unless the Court is satisfied that This is a new subsection, but subsection (6) comes first in terms of sequential order

CHAIRMAN (in Cantonese): Please take a look at the very first sentence of subsection (7).

MR ALBERT CHAN (in Cantonese): The sentence is "The Court must not give a direction under subsection (6)".

Chairman, I understand that paragraph (b) is legally binding where the Court can proceed without issuing a separate order. However, it should be interpreted as certain legally binding effect will be generated upon issuing the order pursuant to the meaning attributed to clause 40(6)(b). Of course, regarding subsection (7), I understand that the Judge of the Court will accept certain arrangements for good reasons and with justifications.

Thanks for reminding me, Chairman.

CHAIRMAN (in Cantonese): Council meetings are broadcast live, and when Members read out certain parts of the provisions, neither the viewers nor the audiences can see the texts of the Bill. Regarding subsection 6(b) that you mentioned just now, it actually stipulates that the Court may direct what is stated in paragraph (b), but the direction given is subject to the conditions set out in subsection (7). Hence, I wish that you will elucidate this point to avoid causing any misunderstanding.

MR ALBERT CHAN (in Cantonese): Chairman, I understand the sequential order and the logic of the provisions concerned, but Chairman, you should also be aware that generally speaking, people not wishing to make public certain

information related to some lawsuits will apply to the Court, such arrangement need not be made in the form of legal provisions. I only

(Mr WONG Yuk-man stood up)

MR WONG YUK-MAN (in Cantonese): Chairman, a quorum is not present.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue with your speech.

MR ALBERT CHAN (in Cantonese): Chairman, thanks for mentioning subsection (7). I also understand this point.

Chairman, please take a look at subsection (7) which specifies that "the company's interest in non-disclosure outweighs the interest of other persons in disclosure". This involves the issue of the choice of stances and interests. According to my own principle, the public should have the right to know since the Court has already made an order. If the Judge of the Court is satisfied that the company's interest outweighs the interest of other persons, and hence no disclosure should be made, it seems to be value-loaded or biased, as the interest of a minority should not be forfeited in order to secure a company's so-called interest.

In the past, there were many cases of large corporations concealing information and making false accounts, such malpractices were revealed by minor incidents and then the situation got out of control, leading to the prosecutions of companies that were worth a market value of tens of billions of US dollar. These companies were held liable to the offences and some even

closed down as a result. Chairman, I am not a businessman, and I do not have a good understanding of the Companies Ordinance, but purely from the perspectives of the public's right to know as well as the legislative intent of enhancing transparency, I do not accept such an arrangement.

Chairman, another issue is related to the disclosure of personal information of directors, and this issue has been discussed for decades. I guess many people expected that the new Companies Ordinance would provide for new arrangements in connection with the disclosure of personal information of directors, in particular, the disclosure of their residential addresses. Why do I say so? Chairman, I have received many complaints from local residents against small companies. Very often, the complainants cannot locate the owners of the companies concerned. While these companies have a registered address, if you go there, you cannot find the office or the responsible person. The complainants can in no way locate the owners or directors and held them liable for their losses. In fact, the complainants are deprived of the channels to seek redress for their grievances or settle monetary disputes.

Of course, for tycoons of large companies, even if they have not provided their residential addresses, everyone knows where they live. On the other hand, many small-size companies are also involved in certain kinds of disputes, some of the disputes involve other companies. As small companies often have cash flow problems, the owners may deliberately "disappear" or default payment for several months, half a year or one whole year. This will bring great pressure on the company. Very often, an owner of a small company will also be a worker, and if he gets involved in a dispute concerning the employment of service of another person, he may deliberately hide away. If the aggrieved person does not have the address of that owner, he cannot locate the missing person as residential address is not required by the Companies Registry. The victim will be unfairly treated.

The Law Society of Hong Kong has pointed out many times in its submission on how to strike a balance, which is difficult to achieve. One of the key purposes of the Bill is to strike an appropriate balance. Provisions tilting towards the registrants will cause other parties to suffer losses. However, if transparency is enhanced, at least the information about the background of a company as well as its responsible person is clearly shown. This may have some impacts on commercial operation in Hong Kong. Hence, given the bias

nature tendency of the provisions concerned, it will basically do harm to other parties that I mentioned just now because the provisions still aim at protecting confidentiality. I take this as one of the defects of the Bill.

Chairman, I request a headcount.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

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

(Mr WONG Yuk-man stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, this is the fifth time you speak.

MR WONG YUK-MAN (in Cantonese): Chairman, I will continue to speak on clauses without amendment. Now it comes to clause 20. There is a long way to go.

Clause 20 falls under Division 2. I will mainly focus on clauses 20 to 25 as they are all under Division 2 concerning Registrar of Companies. There are altogether six clauses, clauses 20, 21, 22, 23, 24 and 25, providing respectively for the Office of Registrar, Registrar's functions, Registrar's power to specify form, Registrar's power to issue guidelines, as well as Registrar's power to authenticate document. The heading of clause 25 is "Fees payable to Registrar".

Regarding clause 20, it was in fact section 303 of the former Companies Ordinance. There is only a little difference between the contents of the old and the new provisions but their headings differ greatly. The original provision Clause 20 provides for the Office of Registrar, other officers and office of

the Companies Registry as well as the seal, which are set out in subsections (1), (2), (3) and (4) of clause 20. However, referring to section 303 of the former Ordinance for such details, you will find the heading rather strange: "Registration offices and appointment of officers for purposes of this Ordinance". It is such a long phrase, right? "Registration offices and appointment of officers for purposes of this Ordinance", there are 11 words altogether. It is revamped as the heading under Division 2, "Registrar of Companies", while "Office of Registrar" becomes the heading of clause 20. Thus, everyone can notice the difference and the provisions are comparatively more concise.

As the Chinese saying goes: "What is necessary is to rectify names. If names be not correct, language is not in accordance with the truth of things. If language be not in accordance with the truth of things, affairs cannot be carried on to success."² Is that right? Thus, the heading of a legal provision must be very accurate. As we have mentioned earlier, the modernisation of law drafting also applies to the headings of provisions, as headings have generally been made more informative and exceptions to general rules are clearly identified as exceptions. Hence, accurate heading of provision is of utmost importance, especially for the Companies Bill which contains 909 clauses, excluding the Schedules. We usually rely on headings when searching certain provisions, right? Why is there a heading for every provision? What will it be like if there is no heading? Well, the provisions will be indistinguishable without indexing.

When we taught news editing in the past, the most important lesson was to teach students how to draft or write news headlines. It was based on the same rationale as this. Back in those days, we asked our students to read as many ancient Chinese writings as they could because the presentation in Chinese is completely different from English. We wanted them to focus on studying the prose style of Wei-Jin Southern and Northern Dynasties, characterized by parallelism and ornateness with four and six characters Chairman, I think you are also familiar with those writings with sentences written in groups of four and six characters I remember that in 1949, when Nanjing was occupied by the Communist Party (known as "communist bandits" then), the *Central Daily News* was the official newspaper of the Kuomintang. On the last day before the communist troops marched into Nanjing to take control of the city, the last issue of the *Central Daily News* was published. The headline on the front page of the

² <<http://ctext.org/pre-qin-and-han>>

newspaper was: "Nation usurped by bandits upon collapse of capital". The phrase was cited from Yu Xin's writing entitled Lament for the South. The people in Nanjing could not help bursting into tears on reading this headline. Now, can you ask officers of the Law Drafting Division to draft headings of this level? It is of course too difficult for them. Actually, this is not necessary in drafting headings of legal provisions, right?

CHAIRMAN (in Cantonese): Mr WONG, you have digressed from the subject. Please focus your speech on the relevant clauses.

MR WONG YUK-MAN (in Cantonese): I have just quoted examples to illustrate the importance of accurate headings. If the headings are not accurate, chances are that people will miss certain relevant clauses. Clause 20 is actually not good enough. The use of "Office of Registrar" in the heading is not specific enough, right? But when compared with the one in the former Ordinance, it is more that one is even worse, yet it has highlighted the key point, namely "Registration offices and appointment of officers for purposes of this Ordinance".

Having talked about clause 20, let us move on to clause 21. Before discussing "Registrar's functions" in clause 21 of the Bill, let us first take a look at its contents: "The Registrar's functions are those conferred on the Registrar by or under this Ordinance or any other Ordinance." What is the problem? Well, I am not at all impressed by such way of presentation. The drafting of such a clause is really disputable.

Let us look at the first and the second parts of clause 21 which are basically consistent in style. Chairman, have you noticed the difference in this provision? It lies in the word "為", which can be pronounced as wai6 or wai4, in the sentence "處長的職能，為本條例或任何其他條例賦予處長的職能或根據本條例或任何其他條例賦予處長的職能。" ("The Registrar's functions are those conferred on the Registrar by or under this Ordinance or any other Ordinance."). Chairman, "為本條例" (by this Ordinance) is used in the first part while "根據本條例" (under this Ordinance) is used in the second part, can you see the point? Have you noticed the difference? Actually, should "為" be pronounced as wai6 or wai4? You find it difficult to understand, are there any differences in the legal implications of these two phrases? We are really at a loss.

Besides, back to the English texts of the clause, there is the phrase "by or under". What is the difference then? Is it necessary to distinguish the word "by" from the word "under"? According to our reference material, clause 21 was based on section 1061(1) of the United Kingdom Companies Act 2006. Certainly, the Bill must be drafted in English first and then translated into Chinese. Notwithstanding this, I see no reason why the clause is presented under two separate concepts, namely "為本條例" and "根據本條例". What is the difference between the two? Chairman, you are now reading the clause. You are far smarter than me, but I only aim at citing chapters and sentences from the texts of the Bill. Therefore, I have to seek your wisdom for gaining an insight into the rationale behind such a style of presentation which the Secretary will definitely never be able to tell.

We learn from the paper provided by the Administration that clause 21 was based on section 1061(1) of the United Kingdom Companies Act 2006, but I cannot help but doubt if officers of the Law Drafting Division made no appropriate changes due to slackness or reluctance to change. I hope that the Secretary can explain this later in his reply, but as I notice that the Chairman is writing and reading at the same time, I believe the Chairman will provide a better explanation. The Secretary may have to wait a little longer to respond, but the Chairman will not debate with me, right? Yet, Chairman, you will occasionally criticize Mr LEUNG Kwok-hung's Chinese proficiency. Sometimes you will comment on the relevancy of the speeches made by Mr Albert CHAN since you are also very conversant with the clauses. However, do not criticize me, just explain to me and it will be alright

CHAIRMAN (in Cantonese): Please continue with your speech and focus on the relevant clauses.

MR WONG YUK-MAN (in Cantonese): Besides the drafting problem, the contents of clause 21 are too vague. Chairman, since the Bill or individual provisions of any other Ordinance have conferred certain functions on the Registrar, why should the functions of the Registrar be reiterated in a separate provision which is unnecessary? Let us compare this clause with a similar clause that sets out the functions of a principal official, for instance, the functions of the Commissioner for Census and Statistics stipulated in section 4 of the Census and Statistics Ordinance, (I quote) "Subject to this Ordinance, the

functions of the Commissioner are: (a) to make such arrangements and to do all such things as are necessary for the taking of any census of population or the carrying out of any survey; (b) to collect, compile, analyse, abstract and publish statistical information relating to the commercial, industrial, financial, social, economic and general activities and condition of the people, and for those purposes to design and use such schedules as he thinks fit and to lay down the instructions and procedures necessary for the proper distribution, completion and return thereof." (unquote)

There are other examples as well, such as the provisions stipulating the functions of the Land Registrar in the Land Titles Ordinance and the provisions stipulating the functions of the Director of Marketing in the Agricultural Products (Marketing) Ordinance. While the above Ordinances have clearly provided for the functions and scope of work of respective principal officials, why is clause 21 of the Companies Bill written in such an ambiguous manner? The heading of this clause is clear enough for us to understand what the clause is about. However, the contents on the functions of the Registrar are too abstract and vague, and there are also the unexpected phrases, namely "為本條例" and "根據本條例". Actually, the meaning can be written in one sentence as follows "處長的職能，是根據本條例或任何其他條例賦予處長的職能" (The Registrar's functions are those conferred on the Registrar under this Ordinance or any other Ordinance). The problem can then be solved, right? If not, Chairman, the specific functions of the Registrar should be clearly set out. However, this is not the case. Not only his functions has not been clearly set out, an unnecessary sentence is even added, that is, "處長的職能，為本條例或任何其他條例賦予處長的職能或根據本條例或任何其他條例賦予處長的職能". So everyone is speechless but we are not allowed to propose any amendments to it now, right?

Hence, we are not "picking bones in an egg", but there are in fact many provisions that are incomprehensible. In the examples we quoted just now, the functions of respective principal officials, including those of the Commissioner for Census and Statistics, are clearly set out, aren't they? And so are the functions of the Land Registrar as well as those of the Director of Marketing which are set out in the Agricultural Products (Marketing) Ordinance. I am not going to quote any further examples. The functions and scope of work of respective principal officials are plainly set out in relevant provisions, only with the exception of the Registrar for Companies. His functions are stated in about 20 words and worse still, there is the repetition of such phrases as "為本條例"

and "根據本條例". Anyway, I am really puzzled by such description of functions even without the repetition.

Next comes clause 22, which is drafted with reference to section 2A of the former Companies Ordinance. This clause aims to elucidate the requirement made under section 2A(1)(b) of the Ordinance, namely, "格式由或可由" ("the form of which is or may be") My goodness! What is meant by "由或可由" (is or may be)? It is so clumsy to put it as "由或可由" The meaning can be made very clear if the expression "格式由或可由根據本條例訂立的規例訂明的文件" ("a document — the form of which is or may be prescribed by regulations made under this Ordinance") is replaced with this one, "根據本條例而訂立規例的訂明文件則屬例外，處長不能指明格式" (The Registrar may not specify the form of any document which is or may be prescribed by regulations made under this Ordinance). In comparison, it is much clearer in respect of the form to be specified.

Clause 23 then (*The buzzer sounded*) time is up.

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

(Mr Albert CHAN stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr Albert CHAN, it is the sixth time you speak.

MR ALBERT CHAN (in Cantonese): Chairman, it seems that only "Yuk-man" and I have spoken on this clause, apart from two barristers from the Civic Party earlier. In the history of Legislative Council this is an extremely important ordinance. There have been recommendations to amend it for many years and there are numerous consultancy reports; more than 900 clauses are involved. However, so few Members are paying attention to it in this Chamber.

We are now discussing more than 400 clauses

(Mr WONG Yuk-man stood up)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, are you requesting a headcount?

MR WONG YUK-MAN (in Cantonese): Yes.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue with your speech.

MR ALBERT CHAN (in Cantonese): Chairman, when I remarked that very few Members spoke earlier, "Yuk-man" said the two of us were fighting a losing battle, while Ms Regina IP said they were in the abyss of misery.

Chairman, actually, the issues raised by this Ordinance should spark a fierce debate. There should be a passionate debate in this Chamber. The indifference to the formulation of the new and old provisions, and especially to the decades of efforts made by so many people and the interests of more than 900 000 companies is a disgrace for Legislative Council and for the development of Hong Kong's democratic political system.

Chairman, there are in fact many problems with these clauses. Of course, we are now deliberating these 400 or so clauses. If my counting is correct, there are more than 400 clauses that will be passed without amendment. However, there are still a number of problems with them. Undoubtedly, this depends on the capacity and background of the parties involved, since the problems affect different kinds of companies out of the 910 000 companies.

Chairman, one very important aspect of these clauses is the question of penalty. Companies may be liable to fines at different levels for contraventions

of different provisions. The offences may carry fines at level 3, level 4, level 5 or level 6. I will cite some simple examples. For instance, clause 88 states that "Company must incorporate alteration into articles". The incorporation of alteration into articles is actually a matter of basic procedure. There is no particular difficulty about it. But once some articles have been altered or incorporated, follow-up actions are needed.

However, according to clause 88(2), "If a company contravenes subsection (1)", which says that "If an alteration is made to a company's articles, the company must incorporate the alteration in every copy of the articles issued on or after the date on which the alteration takes effect". I believe that companies making these kinds of alterations are probably bigger companies. However, there are great differences between the sizes and assets of companies. A company that contravenes this clause is liable to a fine at level 3. But the severity of the penalty varies greatly according to the assets of the company. The severity of the penalty is very different for a company whose assets are worth several hundred million or even billions of dollars, and a company whose assets are worth tens of thousands or millions of dollars.

If my memory serves me right, in overseas countries such as Sweden and Norway, the fine for speeding drivers is set at a certain percentage of their annual income. For instance, if a worker's annual income is \$10,000, the government will fine him at a certain percentage rate on his income. If someone has an income of \$10 million, he will be fined at the same percentage rate. This is more reasonable in terms of social justice, whereas the fine is \$450 in Hong Kong I am not sure if it is \$420 or \$450, but it is \$400 something. If a super rich man driving a Lamborghini is fined \$400 for violating the law, it means nothing to him. But a professional driver may only earn \$600 to \$700 a day after deducting petrol costs and the car rent. If he is fined \$420 on a day, it would be like he is working for the Government for free. There is a great difference in terms of the impact on the two drivers.

The same goes for the Companies Bill. If the penalty is a fixed amount, it has little binding force for big companies that are rich and powerful. If you look at other clauses, the new Companies Bill has one feature, that is, there are penalties in many areas. For instance, clause 119 of the Companies Bill stipulates that "a company may have a common seal". Any contravention carries a level 3 fine. There are also many other clauses with penalties. For

instance, clause 139 on "issue of share certificate on allotment" includes a level 4 fine. Moreover, "each is liable in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues". That is \$700. If you fine the owner of a big company for 100 additional days, it will not be as much as what he pays for a lunch at Fook Lam Moon Restaurant. A bottle of red wine he drinks would exceed this amount by several dozen or several hundred times.

Thus, in terms of the penalties, the overall clauses seem very fair on the surface This Chamber looks a bit abnormal. Everyone on the right side has disappeared. Chairman, I request a headcount. The Democratic Alliance for the Betterment and Progress of Hong Kong deserves high praise. Their attendance rate is extremely high today.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue with your speech.

MR ALBERT CHAN (in Cantonese): Chairman, with regard to the question of penalty, the assets of a company is certainly a factor for consideration. Chairman, during the break just now, I told the Clerk what I thought about this Ordinance in the Ante-Chamber outside. Actually, this Ordinance should be split into four different pieces of legislation to deal with small and medium enterprises (SMEs), big companies, charitable organizations and political parties separately. The provisions and especially the penalties under the Ordinance should be targeted, instead of having the same rules apply to 910 000 companies, since some of them may be international "predators", others may rank in the list of Fortune's top 10 companies, while some companies may only have a registered capital of a few thousand dollars. Thus, if the same penalty applies to 910 000 companies, how much deterrent effect will it have, or how fair is the penalty?

There are penalties for many other aspects in the Bill. I will not read them out one by one. The more I read about the penalties, my first reaction was My assistant who was studying this Bill thought that the penalties would have no effect on the multinational enterprises whatsoever, but they would be disastrous for small companies. One penalty imposed by the Court is almost enough to cause these small companies to shut down and go out of business. But due to the complexity of the clauses, small companies would easily fall into the trap.

Regarding the formation of different companies and organizations, I am reminded of the clause clause 27 on the keeping of documents, that is, the Registrar is not required to keep certain documents. Clause 27(2) states that a document or certificate should be kept for at least seven years. I understand that the stipulation of seven years is common in many legal provisions. But under certain circumstances, it may not be the most appropriate. Chairman, I will give a simple example. Sometimes, we provide assistance to owners' corporations. Once they are set up, they might want to pursue with the developer or the management company over the responsibility. Very often, they need to obtain some documents, since there may be a time lapse of more than a decade between the setting up of the owners' corporations and the completion of the housing development project. As you know, big corporations are very good at financial strategies. Company A becomes Company B. Then at some stage, Company C is set up. By setting up different companies, they can evade legal responsibility.

As we all know, the developers of many large housing estates will set up a subsidiary company to develop some real estate projects, and then set up other companies to manage some other business. There may be many subsidiary companies under a large developer. If the registration records or documents of these companies are only kept for seven years, the information may be lost when someone wants to hold the developer accountable for some matters. At present, some owners' corporations are formed some 10 years after occupancy of the premises. Some owners' corporations are formed twenty years later. After the formation of owners' corporation, they might want to get some documents. If certain documents are held by the companies, they will naturally be untraceable. But if the documents are kept by the Companies Registry, it would help in these situations. However, if certain documents need not be held by the Registrar for at least seven years according to clause 27(2), they will be lost. When owners' corporations and small property owners want to hold someone accountable, they

will probably lose the opportunity and cannot exercise their rights due to the loss of information and documents.

I believe this is because this Ordinance is too general. When certain specific problems arise, this Ordinance may not be able to cater for the specific circumstances. Chairman, this is true for all laws. In case the situation is very complex, involving many aspects and has great implications, the provisions may not be able to cater for the interests of all parties. Thus, I wish to take this opportunity to point out certain deficiencies of this Ordinance. Naturally, it is too late to redeem it, unless it is redrafted When the Government was drafting the law, there were many calls to treat different types of companies and organizations separately. I still remember that different bodies had expressed similar views. Some held the view that differentiations should at least be made between SMEs, big companies and charitable organizations. However, when the Government rewrote the Companies Ordinance, it basically did not consider the advantages of making differentiations, thus resulting in the deficiencies in the law now. In particular, it is biased or fails to cover many aspects in terms of the penalties, the keeping of documents and the provisions about company articles mentioned earlier.

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

(Mr LEUNG Kwok-hung stood up to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, please speak.

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, this time, I wish to talk about clause 202 of the Bill. The Government has not proposed any special amendment to this clause. This clause states that "A director who makes a solvency statement without having reasonable grounds for the opinion expressed in it commits an offence". Simply put, he is lying.

Of course, we understand that someone who can be a company director must be a person of integrity, or he will not be a director — or maybe he is a director because he owns a certain amount of the company's share capital. What

is the abovementioned clause saying? It is saying that if the relevant director fails to explain why he does not admit in his statement that he has no money and may not be able to pay the debts, he commits an offence. It is as simple as that.

This clause is different from the one that I vehemently criticized earlier. This clause refers to something that rich people are most afraid of, that is, imprisonment, which means the loss of freedom and dignity.

A director who is found to have committed the above is liable — "(a) on conviction on indictment to a fine of \$150,000 and to imprisonment for 2 years"; or "(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months."

Chairman, of course we cannot say that the penalty of two years' imprisonment is too light. The question is, this kind of false statement is similar to the Chief Executive's claim that he did not know about his illegal structures. Both involve a very serious crime, which is the lack of integrity.

If you have no integrity and you know you are lying, but cannot explain why you have to lie, what would be the consequences? First of all, the investors would think

(Mr WONG Yuk-man stood up)

MR WONG YUK-MAN (in Cantonese): Chairman, a quorum is not present.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, please continue with your speech.

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, from the offences prohibited by the law, we can see the Government's legislative intent, which is to mete out heavier punishment to people who are rich.

We can go through clause 202 carefully. If the relevant director claims that he is solvent even though he knows he is not, and cannot provide any explanation, he is liable to imprisonment for two years and to a fine of \$150,000. Of course, the fine of \$150,000 is at an antiquated level, set in the days when you could buy two flats with \$150,000. But thanks to Donald TSANG's "benevolent rule", we cannot even buy one brick with \$150,000 now. Would they mind paying such a fine? This amount is not even enough for making a down-payment on a flat.

I do not think the penalty of two years' imprisonment plus a fine of \$150,000 are proportionate. I wonder if the Secretary agrees with this point. He should be very sensitive about figures. Assuming that a person's monthly income is \$10,000, he will lose \$240,000 if he is sentenced to two years' imprisonment. Did the Government amend the law at all? "\$150,000, is that acceptable?(in Putonghua)" It is totally disproportionate. The Judge may think that the person is a first-time offender and order him to pay a fine only — not every judge is as stern as the Judge who gave me a prison term, and sentenced student demonstrators to three weeks' imprisonment. Thus, this provision is undoubtedly offering a way out for offenders.

As we all know, defending oneself and having a lawyer to defend you are two different matters. I am not saying that lawyers are bad people. But believing in their clients' honesty, lawyers will try to secure the best outcome for them, which is a fine of \$150,000. This is outrageous. If the person makes a solvency statement knowing that he is insolvent, who is he trying to cheat? Chairman, of course he is trying to cheat those who lend him money. Would those "big masters" borrow money from me, "Long Hair"? What can I lend them, except a hair or two?

In contrast, imprisonment for two years is a very serious matter. They have committed a criminal offence and are sentenced to imprisonment because they have cheated those who have money to lend them. In other words, "debtors" may not cheat their "creditors". But if big corporations cheat

shareholders, then "it is ok. Relax.(in Putonghua)". Please tell me if this distinction has to do with class differences. Is the Administration protecting the creditors?

An ordinary person may be a creditor. This is possible. But will he take the matter to court? Actually, he cannot bring a civil suit. If a cop is involved, do you think it is a serious matter? Frankly, if I deceive Mr David LI, it is not a problem. I can tell him, "Mr David LI, there is no meeting today. You do not have to come back to support LEUNG Chun-ying." It is ok, because I would only be joking with him. However, if I deceive Mr David LI when I borrow money from him, it would be a serious matter.

Some people who have committed a petty offence such as cheating someone out of a few hundred or a few thousand dollars may be given a heavy sentence, because they are not prosecuted according to this clause under the Companies Ordinance. The penalty under the Companies Ordinance may be lighter. What is a "company"? Etymologically, the Chinese name of "company" suggests that it is in the public domain. If it is a private company, the shares are not sold publicly. But if there is a public offer of shares, it is certainly a public matter. The shares will be bought by a housewife in Ngau Tau Kok and Mrs LEE in Tai Kok Tsui. One could say that the director concerned would "get his neighbours in trouble when he is alive, and bring troubles to his friends after he is dead". Yet, for all he had done, he only has to be imprisoned for two years. Is the penalty too light? Maybe the Administration considers that the penalty under this clause is heavy enough. If you cheat ordinary people, you can still expect leniency; but if you cheat those who have money to lend, the crime is inexcusable.

Another question has to do with the clause "liable on summary conviction to a fine at level 6 and to imprisonment for 6 months." The amount of the level 6 fine is totally negligible. Maybe the amount had a deterrent effect when the legislation was first enacted, but now the amount is negligible. If subsection (b) applies, the director concerned will be given an even lighter punishment. He will only be liable to imprisonment for six months at the most, meaning that he will be a free man after four months. If he has swindled \$40 million, he would pay off \$10 million for every month he serves in prison. It is a very good bargain.

Chairman, there is another thing that you would probably be aware of, since you have dealt with many legal cases. It is the question of so-called keeper. A young son of my friend studied in the United Kingdom. After he came back to Hong Kong, his first job is to be a director of a company. The company is neither large nor small, and his title is to be a "keeper" — meaning that the person to take the blame under the Companies Ordinance. He can have expensive meals and wear expensive clothes. His car is provided by the company and his petrol is paid for by the company. So this is the situation of the keeper.

Chairman, of course you may say that having keepers does not imply that the legislation is defective. Chairman, you are wrong. Of course, keepers are not willing to die for someone. But in the case of imprisonment, naturally keepers will not be willing to go to prison for 10 years for others sake. But if they only serve an imprisonment term of 10 months, of course they will be willing to do so.

If the penalties are too light, you will be encouraging the keepers. That is why so many drug addicts act as keepers in sex establishments. Frankly, they only have to go to prison for two months. After two months, they are free and will get a large sum of money in return.

Thus, to stop people acting as keepers or "scapegoats", heavy penalties should be imposed. If someone says to Jasper TSANG: "I will give you \$1 million for your family, but the offence may carry a sentence of 10 years' imprisonment.", he will no doubt say, "You are crazy. Go to see a doctor if you are sick." The Administration has imposed such light penalties even though it is well aware of this problem, or maybe it does not know about it. Whether it is the former or the latter, it only reflects that the Administration is either stupid or wrong. That is why I say that the Administration has technical skills but no common sense, because it does not know about the existence of "keepers". Without heavy penalties, how can the Administration stop bad people from keeping some directors as figureheads? In politics, there are also those who swear oaths of loyalty and support Article 23. If you do not have to die even though you have sworn to support Article 23, I do not mind doing it myself.

As I say, the Administration does things halfway. On the one hand, you think that those who cheat banks out of their money should be punished; yet on the other hand, you leave them a way out, indicating that you will not punish

them. What kind of governance is this? It is just acting perfunctorily. The Administration is just saying, "We are taking action. But we will leave you a way out. Your company can hire a young man who has completed a master's degree in economics in the United Kingdom and let him sit in the director's chair. He can just fool around and does nothing. Should anything go wrong, this well-educated person can take the blame." He is the one who "makes a solvency statement without having reasonable grounds for the opinion expressed in it" ("在無合理理由支持在償付能力陳述中表達的意見的情況下，仍作出該陳述"). The Chinese really sucks.

Chairman, this is the crux of the question. If I run a cocaine stall and the penalty for running a cocaine store is only imprisonment for three months, I will find a "junkie" to take the blame. When the police come, I will ask him to admit that he operates the store. That is how it works.

Thus, from the legislation, we can see the class orientation of the authorities and how they make a distinction between those who are close to them and those who are not. If you are a small shareholder, sorry, it is no big deal if you are conned — there is nothing you can do about it. However, if you cheat bankers or loan sharks, you will be punished. Nevertheless, Chairman, the Administration does not want the punishment to be too heavy, so we have the present penalty, which is imprisonment for two years.

Two years, two years, two years. Frankly, if a "big master" says to the son of my friend who sits in the director's chair and fools around, "I will give you \$50 million for going to jail for two years. Will you accept the offer?". He will definitely say yes. That is how it works.

Chairman, my conclusion is that heavy punishment should be imposed if you want to punish them, or else do not punish them at all. There is no need for this. Secretary, you are a professor, just think about that. Chairman, that guy Makoff in the United States is awesome. Even rich people begged him to manage their private funds. If Makoff were in Hong Kong — Madive, no, it is Maldives, Madoff — if Madoff were in Hong Kong, he would not be given two life sentences. He would just have to find a young man to take the blame. He could just tell him, "Kid, you have finished your education. Knowledge is priceless but time has a price. You would at most get two years' imprisonment under this law". That would solve everything, right?

Chairman, frankly, you can tell how things are from one small clue, and a straw shows which way the wind blows. The British were of course mercantilist. It cannot be helped. We are no different now.

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

(Mr Albert CHAN stood up and indicated his wish to speak)

CHAIRMAN (in Cantonese): Mr Albert CHAN, you are speaking for the seventh time.

MR ALBERT CHAN (in Cantonese): Chairman, if you keep counting how many times I have spoken, I very much fear that Rule 92 of the Rules of Procedure will soon be invoked again.

Chairman, I wish to clarify what I said earlier about the personal particulars of company directors, especially about their address. When you register your company, the correspondence address and residential address are filled in separately. While the correspondence address can be inspected, the residential address might involve some privacy issues, unless

(Mr LEUNG Kwok-hung stood up)

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, excuse me, a point of order. Just now I asked you to put the person who talked about "holding meetings day and night and night and day" on the wanted list. He has slipped out, leaving only a yellow jacket behind. I hope

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, what is your point of order?

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, we are now in the Committee stage. Should I request a headcount according to Rule 17(3) or Rule 17(2) of the Rules of Procedure?

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue with your speech.

MR ALBERT CHAN (in Cantonese): Chairman, I just want to clarify further the question of the particulars of directors given for registration. The provisions state that the correspondence address is available for public inspection, but the residential address involves questions of privacy. Of course, under certain circumstances, the Registrar can ask the director to provide this information. But since the address of a director might involve issues of privacy, it is not available for public inspection as other information on the Companies Register. I think this gives certain people too much protection. I have already given my reasons earlier and will not repeat them. This is because when disputes arise, if the parties concerned need to find the person in charge of a company or its directors, they may not be able to do so without access to their personal particulars. Very often, the so-called correspondence address is merely a front. The company may have relocated, or the premises at the address provided may be vacant or shared with other companies. That is why there is no way to find the people concerned at all. Thus, these overly protective clauses are another shortcoming of the revised Ordinance. This is unfair to certain honest people, since they will not be able to trace those they are looking for and their interests will be jeopardized. This is an obvious shortcoming of the Ordinance.

Chairman, next, I would like to talk about clause 98, which is about the Registrar's licence to dispense with "Limited". Actually, clause 98 is similar to the provision in the original Companies Ordinance, and states that the Registrar

may exercise his power and permit an association to be registered without "Limited" as the last word of its name if certain facts are proved to his satisfaction. Of course, deleting the word "Limited" from their name would be convenient for certain organizations and give them certain privileges. Naturally, the Ordinance also stipulates that it must be proved, according to clause 98(1)(a), that the company "is to be formed for promoting commerce, art, science, religion or charity or any other useful objects; (b) the association intends to apply the company's profits or other income in promoting its objects; and (c) the association intends to prohibit the payment of dividends to the company's members."

Chairman, over the years, the public has condemned the special arrangements or special privileges enjoyed by the companies after the licence is granted. There have also been many negative comments. Basically, the public is questioning whether the Registrar can effectively ensure that the relevant requirements are satisfied, especially in terms of the application of the company's profits. First, Chairman, as I understand, even under the past provisions, many companies operate in this manner after being granted a licence. However, supervision by the Companies Registry is almost non-existent. Earlier, some people complained to me about a service company which is quite famous. It is a company that provides special services to the elderly. It has been alleged that there are many problems with it. It makes you wonder whether the Government gives special treatment to people with special status.

Chairman, I will not name any names. When the company was incorporated by the Companies Registry in 1996, its name included the word "Limited" in it. In 1997, the Registrar gave permission to delete the word "Limited". The company made an application — as I understand, it must have made an application. According to the Ordinance — even if it is the old ordinance, it is basically similar to the new Ordinance — Chairman, basically, according to clause 98(1)(b), it intends to apply the company's profits or other income in promoting its objects, or the association intends to prohibit the payment of dividends to the company's members. However, if we look at the data in the company's yearbook, it has been making a big profit for many years, since 1997. Maybe I should not say it is making a big profit, but it makes a profit nevertheless. Whether it is big or not depends on how you look at it. The company is not a large property developer. Nominally, it provides certain special services to the elderly. The profits it has made over the years are accumulated, meaning that it keeps the profits earned in the company, rather than

spending the money on services that are consistent with its objects. Even under the old Companies Ordinance, the profits should be used in promoting its objects. If it allows the profits to accumulate or puts them in the bank, Chairman or Secretary, how does it explain

CHAIRMAN (in Cantonese): Mr CHAN, how does the example that you give about contravention of this Bill relate to the clauses under discussion now?

MR ALBERT CHAN (in Cantonese): Chairman, this is about clause 98(1)(a) and 98(1)(b): "the association intends to apply the company's profits or other income in promoting its objects". I just want to point out that according to the provision in clause 98 about dispensing with the word "Limited", there are some obligations to be fulfilled. These obligations include, according to clause 98(1)(b) that I read out just now, applying the income in promoting the company's objects. I merely want to point out a current phenomenon, Chairman. Even under the present arrangements — I believe it is not just one company, but all the relevant companies allow their profits to accumulate. If they let them accumulate, it basically indicates that they have not met the conditions to which the licence granted to them by the Registrar is subject, including applying their profits in accordance with the provisions in

CHAIRMAN (in Cantonese): How does the example you cite relate to the Bill?

MR ALBERT CHAN (in Cantonese): I just want to point out that the Registrar fails to enforce the existing legislation or allows grey areas to exist in the legislation, so that certain people can accumulate their profits. This clause duplicates the old ordinance

CHAIRMAN (in Cantonese): Mr CHAN, if you have discovered these cases, you should report them to the authorities, rather than using them as examples to discuss the clauses of the Bill.

MR ALBERT CHAN (in Cantonese): Chairman, I merely want to point out the inadequacies of the ordinance. Chairman, the ordinance does not provide for any penalties when these problems arise with the companies. This is exactly the problem that I wish to point out subsequently. Since the relevant companies are exempted and have accepted the arrangements under the relevant clause but fail to fulfil their obligations, the ordinance should make clear punitive provisions. I wish to point this out, Chairman. This is precisely the next point I want to make.

Look at clauses 98, 99, 100 and the subsequent clauses. I do not see — I do not know if I have missed any clauses, but I do not see any punitive clauses. In many other clauses, when someone contravenes certain provisions, there are fines at level 3 or level 4 — I have cited many clauses that carry penalties earlier. However, if a company is granted a licence to dispense with the word "Limited", and the people concerned fail to comply with the terms and conditions laid down by the Registrar or in the ordinance, there are no penalties in the ordinance. Is this another form of shielding, collusion and granting of special privileges by the Government?

Chairman, I wish to use this example to point out this problem and phenomenon. The company that I referred to just now is run by some famous people who are closely connected to senior government officials. Chairman, since there are no penalties, what is the use of reporting? If

CHAIRMAN (in Cantonese): The relevant consequence is revocation of licence. You can read clause 101.

MR ALBERT CHAN (in Cantonese): I understand. But revocation of licence does not mean anything. What is the point of revocation? How come other This is because he is making profits and uses the profits to benefit his cronies by paying them high salaries. I just wish to point out this flaw in the entire provision. Chairman, as I have said in my whole argument, this Ordinance should have been divided into many different parts. Since it is not divided into many different parts, it is not very targeted in some provisions. When certain people acquire special privileges and benefit from the provisions, and through manipulation transfer these benefits to certain individuals, as well as

continuously increase the company's assets, there are no penalties under the Ordinance, even though they fail to fulfil their obligations. Isn't this very strange? Chairman, it is very strange if we draw further conclusions along these lines. Under many provisions of the Ordinance, including clauses that I quoted earlier, such as those on a company's articles, failure to fulfil certain obligations, such as those related to the common seal or certain information, will incur penalties. But there are no penalties in this respect.

Chairman, in terms of penalties, I just want to say a few more words. Regardless of the size of the companies, the best penalty is actually imprisonment for the responsible person. Actually, imprisonment is the fairest punishment. Whether you are a billionaire or a worker, you will be liable to imprisonment for seven days, and will have to face the music in prison. This is the fairest punishment. As far as I know, in some states in the United States, those who have committed certain driving offences, such as drink driving, will be given prison sentences of seven days straight away. Once you are convicted of drink driving, you will immediately go to prison for seven days, regardless of your status or other circumstances. The penalty is not a fine, so money is not everything. You will be put in prison for seven days, so that you can learn a painful lesson and reflect on the seriousness of drink driving.

Many penalties under Hong Kong laws, especially under this Ordinance, are in the form of fines without the penalty of imprisonment. Of course, some very serious offences carry the penalty of imprisonment. But the majority of penalties are in the form of fines. This is obviously a kind of favourable treatment or condoning the rich, while for small businesses and ordinary people, it is a very heavy penalty. It is just like littering, which carries a fine of \$1,500. For those on Comprehensive Social Security Assistance, it is equivalent to one month's income. There are numerous cases of people complaining about it. But for the rich people, \$1,500 is just peanuts and not enough to pay for a bottle of red wine.

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

(Mr WONG Yuk-man stood up and indicated a wish to speak)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, you are speaking for the sixth time.

MR WONG YUK-MAN (in Cantonese): I am speaking for how many times?

CHAIRMAN (in Cantonese): You are speaking for the sixth time.

MR WONG YUK-MAN (in Cantonese): The sixth time. How exhausting!

I will now speak on clause 23. Clause 23 states that "the Registrar may issue guidelines" and contains five subsections. Talking about guidelines, we have to mention two bills that have been passed recently, namely the Competition Bill and the Personal Data (Privacy) (Amendment) Bill 2011. The Competition Commission and the Privacy Commissioner are authorized to issue guidelines, while clause 23 of the Companies Bill also authorizes the Registrar to issue guidelines indicating the manner in which the Registrar proposes to perform any function or exercise any power, or providing guidance on the operation of any provision of the Companies Ordinance.

We agree that guidelines are not subsidiary legislation. But since guidelines can be admitted as evidence in legal proceedings, these guidelines are also very important. However, we have to ask how come the Bill does not require the Registrar to hold official consultations before issuing the guidelines. According to clause 35(4) of the Competition Bill, and I quote: "Before issuing any guidelines". Chairman, do you feel the air quality is very poor now? Or maybe we are not feeling well? The room is very stuffy. Is it because all air-conditioning has to be switched off after 10 pm?

CHAIRMAN (in Cantonese): Clerk, please ask staff to check the air-conditioning.

MR WONG YUK-MAN (in Cantonese): It is really very stuffy. This is such a huge space, and yet it is so stuffy that it makes your face burn. Touch your face to see if it is burning. If we sit here for another hour, we might be dead *(some Members were speaking in their seats)* I am not wasting time. I am just concerned for your health, Mr CHAN Kam-lam

CHAIRMAN (in Cantonese): Mr WONG, if you can stand it, please continue with your speech. We have arranged for staff to check.

MR WONG YUK-MAN (in Cantonese): This means what I said is true. OK, never mind. Things being what they are, I do not mind putting up with it for another hour. Clause 35(4) of the Competition Bill stipulates that (and I quote): "Before issuing any guidelines or amendments to them under this section, the Commission must consult the Legislative Council or any persons it considers appropriate." (unquote) The Personal Data (Privacy) (Amendment) Bill 2011 also has a similar clause.

Compared with the Competition Bill and the Personal Data (Privacy) (Amendment) Bill 2011, the Companies Bill seems very outdated Secretary, are you tired? I strongly urge the Law Drafting Commission of the Department of Justice to add a provision about holding consultations when they draft similar clauses on issuing guidelines in future. Moreover, they should be mandatory consultations. I do not like the word "性" (inherent character, nature or sex) in the term "強制性諮詢" (mandatory consultation). The consultations should be mandatory. In addition, the persons to be consulted, such as the industry, academics, the relevant trade unions and professional groups, should be specified. Of course, it would be even better if the Government is willing to include Legislative Council in the list of bodies to be consulted. However, after seeing how Legislative Council Members scrutinize the Companies Bill, I really think it hardly matters whether to consult them or not. They are not even willing to speak. So, what is the point of consulting them?

CHAIRMAN (in Cantonese): Mr WONG, you have repeated this point several times.

MR WONG YUK-MAN (in Cantonese): No, I am talking about consulting Legislative Council Members. Isn't it a waste of time to include such lazy Legislative Council Members in the list of persons to be consulted? However, it is only the performance of incumbent Members. Members in the next term will be different.

CHAIRMAN (in Cantonese): Mr WONG, as you know, when other Members are forced to sit in the Chamber and listen to your sixth speech, such reaction is quite natural.

MR WONG YUK-MAN (in Cantonese): Chairman, thank you for your wise words. I am only human. If I were in their shoes, I would probably find it hard too. The manner of issuing the guidelines under clause 23 of the Companies Bill is also rather outdated. Even though the Companies Bill also allows the issuing of guidelines in electronic form, the Competition Bill and the Personal Data (Privacy) (Amendment) Bill 2011 have much more detailed provisions on the manner of issuing guidelines.

Clause 35(5) of the Competition Bill stipulates the manner of making available copies of the guidelines (and I quote): "(a) at the offices of the Commission during ordinary office hours; (b) through the Internet or a similar electronic network; and (c) in any other manner the Commission considers appropriate." (unquote) While the Competition Bill clearly spells out the manner in which the guidelines are to be made available, the Companies Bill does not require the Companies Registry to make available copies of the guidelines to the public at its offices during ordinary office hours. Isn't this part somewhat different, Secretary? While it seems insignificant, it will affect the public. How will it affect them? It will affect their right to access the relevant information effectively.

Actually, the Government frequently obstructs the free flow of information. Since there is no such thing as an Information Freedom Act in Hong Kong, the Government can restrict the free flow of information by invoking the Official Secrets Act or by citing other reasons. Even though the Government will not

deliberately obstruct the flow of information in formulating these legal provisions, the clause I discussed just now will indirectly hinder the free flow of information the guideline is a case in point. They are not made available in a manner that is convenient for the public. Although there is now wide access to the Internet, many people may still not be able to access information on the Internet. Thus, placing copies in the offices of the Companies Registry or making them available in other appropriate manner would make it easier for the public to consult them. What is the drawback in that? Of course, I cannot move an amendment to clause 23 now. But I hope that as a matter of policy, the Administration can promise that the Companies Registry will make available copies of their guidelines at least according to the standards of section 35(5) of the Competition Bill. Naturally, this involves two different Policy Bureaux. You can seek advice from Secretary Gregory SO.

In addition, section 25 Chairman, it is really very hot.

CHAIRMAN (in Cantonese): Maybe the Administration has set the temperature higher after listening to Ms Audrey EU's advice.

MR WONG YUK-MAN (in Cantonese): Is that so?

CHAIRMAN (in Cantonese): Please continue with your speech. Do you still think the temperature is too high?

MR WONG YUK-MAN (in Cantonese): Some Members feel cold, while we feel hot. The light falls straight on this spot.

CHAIRMAN (in Cantonese): Staff are adjusting the temperature to a lower degree.

MR WONG YUK-MAN (in Cantonese): I am really sweating. I am not kidding. Never mind.

According to clause 25 of the Companies Bill, the Financial Secretary may make regulations as authorized under subsections (1) and (2) of the clause The heading of clause 25 is "Fees payable to Registrar" The Financial Secretary may make regulations as authorized under subsections (1) and (2) of the clause in respect of the provision of services or facilities under the Companies Bill. The regulations to be made by the Financial Secretary will replace the table of fees in Schedule 8 of the existing Companies Ordinance. You can I do not know if you have a copy of Schedule 8 of the Companies Ordinance. But I have this schedule at hand. When the existing Companies Ordinance is amended, these alterations are made with regard to the fees to be paid under Schedule 8.

The table of fees set out in Schedule 8 of the existing Companies Ordinance is well-established. On 16 March this year, the Government made the Companies Ordinance (Amendment of Eighth Schedule) Order 2012 to abolish capital duty. This would cost the general revenue around \$90 million a year. According to the existing Companies Ordinance, the Companies Ordinance (Amendment of Eighth Schedule) Order 2012 was made by the Secretary for Financial Services and the Treasury Prof K C CHAN. I am concerned that under the new arrangements of clause 25 of the Companies Bill, the workload of the Financial Secretary will increase and the power will be too centralized. According to the proposal for the restructuring of the new government, the Financial Secretary's workload is too heavy, so the post of a Deputy Financial Secretary needs to be created. There is already a candidate for the Deputy Financial Secretary. It is Mr Paul CHAN who sits in front of me. But now, isn't true that he may be losing both jobs? Should we consider sticking to the table of fees in Schedule 8 of the existing Companies Ordinance? It is indeed worth considering, Chairman.

The air quality here is really terrible. We should go out and take a break. Chairman, a quorum is not present.

CHAIRMAN (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, please continue with your speech.

MR WONG YUK-MAN (in Cantonese): Chairman, the cause has been found. The air-conditioning here has been turned off. Whenever I speak, the air-conditioning will be turned off. Otherwise, it may affect the reception of sound. Now, they have to turn it off again. It is grand but impractical. Are new things necessary good? They have to turn off the air-conditioning, or the reception of sound will be affected.

Clause 25(1) is part of subsidiary legislation, which needs the approval of Legislative Council. However, the determination of fees under clause 25(3) adopts another standard. It stipulates that the Registrar "may, subject to the approval of the Financial Secretary, determine what fees are chargeable in respect of the performance of functions or the provision of services or facilities — for which fees are not provided for by the regulations; or in circumstances other than those for which fees are provided by the regulations; and may charge such fees".

This is another standard. It stipulates that the Registrar may, with the approval of the Financial Secretary, determine what fees are chargeable in respect of the performance of functions or the provision of services or facilities, and may charge such fees. We are concerned about the part "subject to the approval of the Financial Secretary". This implies that the determination of fees needs not be approved by Legislative Council. Clause 25(1) is a subsidiary legislation and is subject to the approval of Legislative Council. However, the determination of fees under clause 25(3) is subject to the approval of the Financial Secretary, bypassing Legislative Council and the need for its approval. This arrangement is hard to accept. However, there is no way to remedy it now. We are merely expressing our view.

These are my remarks on clauses 20 to 25.

SUSPENSION OF MEETING

CHAIRMAN (in Cantonese): Although Members have agreed that today's meeting can be held until midnight, Mr WONG Yuk-man has repeatedly complained about the poor air quality in the Chamber, and some other Members have indicated physical or mental exhaustion. Hence, I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at seventeen minutes past Eleven o'clock.

Appendix I**WRITTEN ANSWER****Written answer by the Chief Secretary for Administration to Ms Cyd HO's supplementary question to Question 4**

As regards the remedial works of the Legislative Council Complex, following the Legislative Council meeting held on 4 July 2012, the Architectural Services Department (ArchSD) reported to the Legislative Council Commission on the daylight control in the Legislative Council Chamber on 10 July 2012. The Contractor has submitted a detailed consultancy report and the computer-stimulated daylight assessment data to the ArchSD. The ArchSD is now examining the report. Meanwhile, to enhance the day lighting performance inside the Chamber, improvement works such as removing part of the shading grilles and applying reflective paint on part of the external wall of the light funnel are being carried out during the Legislative Council recess. The ArchSD is working closely with the Contractor and the Legislative Council Secretariat to monitor the works, which are scheduled for completion before commencement of the next Legislative Council session in early October 2012.